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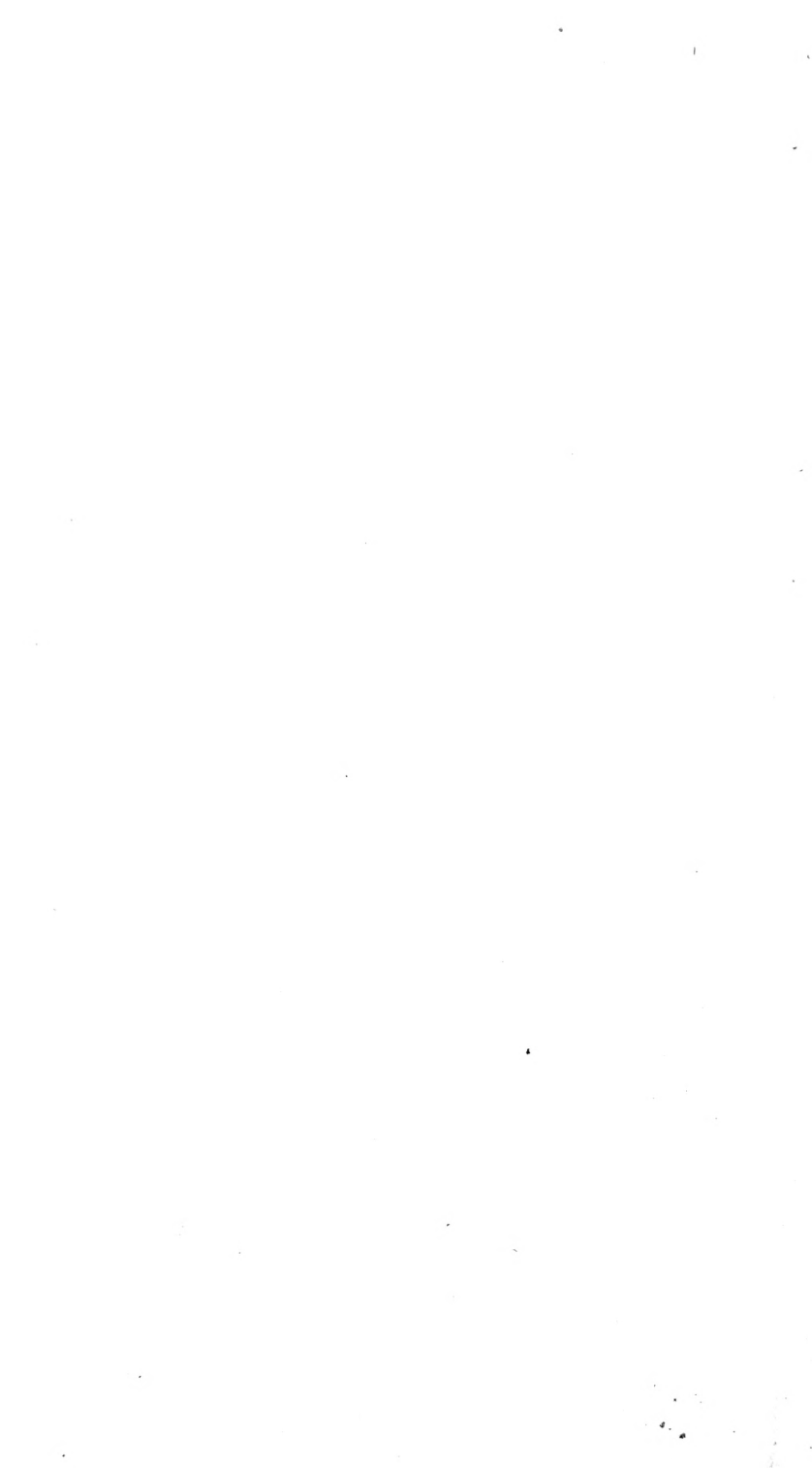






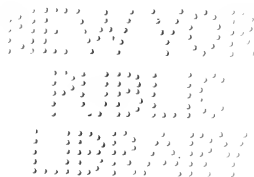
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AN  
ORATION  
DELIVERED BEFORE THE  
MUNICIPAL AUTHORITIES  
OF THE  
CITY OF BOSTON,  
JULY 4, 1859,  
BY GEORGE SUMNER.  
TOGETHER WITH  
THE SPEECHES AT THE DINNER IN FANEUIL HALL, AND OTHER CEREMONIES  
AT THE CELEBRATION OF THE  
EIGHTY-THIRD ANNIVERSARY OF AMERICAN INDEPENDENCE.



BOSTON:  
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1859.

Checked  
May 1913



## CITY OF BOSTON.

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*In Common Council, July 21, 1859.*

ORDERED: That the thanks of the City Council be, and they hereby are presented to GEORGE SUMNER, Esq., for the eloquent Oration by him delivered before the Municipal Authorities on the occasion of the Celebration of the Eighty-Third Anniversary of the Declaration of American Independence, and that a copy of said Oration be requested for publication.

Sent up for concurrence.

J. P. BRADLEE, *President.*

*In Board of Aldermen, July 25, 1859.*

Passed in concurrence.

SILAS PEIRCE, *Chairman.*

Approved, July 27, 1859.

F. W. LINCOLN, JR., *Mayor.*



## I N T R O D U C T I O N .

THE Fourth Day of July, the anniversary of American Independence, is a day which, by the common consent of common patriotism, has come to be celebrated, both as a great civil occasion, and as a holiday of the people.

If, in the latter aspect, it can be said that succeeding years enhance the magnitude of the festival,—as the people multiply, and as, with the most complete enthusiasm and universal spirit of national love, by ceasing from labor and abandoning themselves to festivity and demonstrative pleasure, Americans, born and adopted, testify the sincerity of their devotion to the Country,—it is not less true that in the extent of our civil celebrations there is a steady increase, embracing in their scope, as they often do, large schemes of popular holiday amusement.

As these transactions grow in dignity and importance, faithful records of them become more and more desirable; and in placing the contents of this volume in a comparatively durable form, the Municipal body manifests its consideration, not only of the present interest of these documents, but also of their future value, as the ineffaceable tidemarks in the book of history which shall indicate to coming generations the strength and progress of republican institutions.



ORATION.





## P R E F A C E.

HONORED by the request of the City Council to speak, in the name of Boston, on the Fourth of July, it seemed to me proper on that occasion to discuss some of our obligations, as Americans, to other nations and to ourselves.

The facts then stated, which bear upon the aid given our country in its Revolutionary struggle, were verified by the examination of original documents in the archives of the State Department at Washington, of the French Ministry of Foreign Affairs at Paris, and of the Spanish government at Seville and Madrid; and also of papers in the hands of the executor of Caron de Beaumarchais, the agent of the first benefactions of France.\*

In giving to Spain the credit of having projected the Armed Neutrality of 1780, I am aware that I may seem to have differed from many writers on International Law. The statement, however, was not lightly made, nor without documentary evidence to sustain it.

\* As the recent biographer of Beaumarchais, M. de Loménie, has charged the United States with ingratitude to him, I take this opportunity publicly to state, that having drawn the attention of his executor to the first accusations of M. de Loménie, in the *Revue des Deux Mondes*, that gentleman declared to me, that every just claim of Beaumarchais had been "fully, largely, and generously paid by the United States;" and this declaration he offered to repeat, in his official capacity, before a Notary Public.

Of what was said concerning the position of European countries, I have nothing to alter on account of the truce of Villafranca.

As regards recent events in our own country, speaking in the name of a law-abiding people, I felt it my duty to raise a warning voice against conduct which the wisest jurists in the land have denounced, as tending to bring the tribunals of the law into disrespect. Speaking in the name of those whose ancestors made sacrifices to secure liberty founded on law—and who believe an essential guaranty of that liberty to consist in the separation of the legislative, executive and judicial functions—I should have been recreant to my trust did I fail to speak of acts which tended, if not to confound those functions, at least to destroy their harmonious balance. Venerating the Constitution, I could not stand dumb in presence of the earnest appeal of the Senior Judge of the Supreme Court—the companion upon the bench of Marshall—Mr. Justice McLean, who, alarmed at the usurpations of the Chief Justice, and other of his junior colleagues, exclaimed in the *Dred Scott* case: “Have the impressive lessons of practical wisdom become lost to the present generation? If the great and fundamental principles of our Government are never to be settled, there can be no lasting prosperity. The Constitution will become a floating waif on the billows of popular excitement.” Yielding to no one in respect for our judicial system—and keenly alive to the importance of that respect being universal—I felt it my duty to invoke the supreme tribunal of the land—the Sovereign Public Opinion of the country—to aid in awakening a portion of the Judiciary to a sense of self-respect—the basis of respect from others.

Jefferson in a letter to Edward Livingston, of 25th March, 1825, says: "Your code for Louisiana will range your name with the sages of antiquity. One single object will entitle you to the endless gratitude of society; that of *restraining judges from usurping legislation*. . . . Experience has proved that impeachment in our forms is completely inefficient. A regard for reputation and the judgment of the world, may sometimes be felt where conscience is dormant, or indolence inexcitable."

Story also recognized as the High Court of Appeals of our country, "its intelligence, its integrity, its learning and its manliness."

In addressing myself to these, I followed my convictions of duty; being true to which I felt that I was true to Boston.—I was happy moreover in the certainty that even so humble a voice as my own, when speaking for the purity and dignity of the Judiciary, had the cordial support of the members of every "healthy political organization" in the Republic.

G. S.

Boston, 1st August, 1859.



## ORATION.

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EIGHTY-THREE years have passed since the delegates of thirteen feeble colonies proclaimed the immortal truths of that Declaration to which we have just listened. This act, pregnant with consequences to all mankind, stands in history as the record of the birth of a new nation.

In 1776 the great powers of Europe were at peace, and England was at full liberty to throw on our shores the whole force of her arms.

In the great contest which ensued—a contest for self-government and for the equal rights of man—perils were encountered and sufferings endured, which we, calmly enjoying their fruits, remember with gratitude to the men who toiled for us, and with fealty to the principles which they proclaimed.

The struggle was long and unequal; and when the enemy succeeded in gaining possession of New York, the timid began to falter. All eyes were now turned to Europe. Delegates had been already despatched to seek the assistance of France, and their hopes were not disappointed. One million of francs

were given from the French treasury; cannon and military stores furnished from the arsenals of France; other stores to the value of a million of dollars placed in colonial ports accessible to our vessels; and a series of friendly acts commenced which, on the 6th of February, 1778, were consummated in a treaty of alliance, and in a declaration by which France bound herself to make no peace with England until the independence of the United States was fully recognized.

But it was not France alone which came to our aid. During that summer of '76, one of those brave men who were the creators of the naval glory of our country, Captain John Lee, of Marblehead, cruising under a commission from Congress, having taken and sent home five valuable prizes, and finding it necessary to refit and obtain supplies and munitions of war, entered the port of Bilbao in Spain. The captains of two of his prizes and a part of their crews were on board. These officers immediately protested against their capture, and had Capt. Lee arrested on a charge of piracy. The local authorities sent the documents of the case to Madrid, together with the commission granted by this new and unknown power. Here was a critical juncture in our affairs. On the decision of the Spanish Ministry depended, not alone the fate of Capt. Lee, but whether some of the most important ports in Europe

should be opened or closed to our cruisers and privateers. The English Minister in Spain brought all his influence to bear against us. At this moment the Declaration of the Fourth of July reached Madrid. The complaint against Capt. Lee was dismissed; supplies for his ship, and aid in repairing it were furnished; and public declaration made that in Spanish ports the new flag of America was as free and as welcome as was the old and haughty flag of England.\*

This open act of friendship had been preceded by another. On the 27th June, 1776, the Spanish Minister of Foreign Affairs sent to Count Aranda, Ambassador of Spain, in Paris, one million francs, as a free gift for the American Colonies;† and on the 11th August this million was paid over to the agent, with whom Silas Deane and Arthur Lee, as delegates of Congress, were in treaty for the shipment of arms and supplies.

But this was not all. Cargoes of military stores were sent to us from Bilbao; then the hint was

\* Cooper, in his *Naval History of the United States*, seems entirely to have overlooked this interesting episode. Captain Lee was a brother of Colonel William Lee, for many years Collector of Salem, the same to whom Washington proposed the place of Adjutant General of the Revolutionary Army, before offering it to Colonel Timothy Pickering. Silas Deane, in his despatch of 17th October, 1776, to the Committee of Secret Correspondence of Congress, erroneously describes Captain Lee as of Newburyport. — See *Diplomatic Correspondence of the Revolution*; vol. I., p. 53.

† I have seen the despatch of the Marquis of Grimaldi to Count Aranda, enclosing this draft for a million francs.

given that three thousand barrels of powder stored at New Orleans were at our service;\* the port of Havana was opened to us on the same terms as to

\*The despatches of Oliver Pollock, the agent of Congress at New Orleans during the war, which are in the archives of the Department of State at Washington, throw the fullest light upon what was done by the Spanish Government in Louisiana.

As early as August, 1776, a cargo of powder was given by Governor Unzaga, despatched by Pollock, and arrived in safety. In January, 1777, Don Bernardo de Galvez succeeded Unzaga as governor.

"That worthy nobleman," writes Pollock, "immediately made a tender of his services, and gave me the delightful assurance that he would go every possible length for the interest of Congress. I should be guilty of injustice did I not declare that this generous promise was honorably fulfilled; and I should bely my own heart if I did not on this, as on every other proper occasion, express my grateful sense of the services he has rendered to the United States. The first instance of them was retaliating the seizure of an American schooner in the lakes, by the seizure and confiscation of all British vessels between the Balize and Manchac, . . . and by an assurance that the port of New Orleans should be open and free to American commerce, and to the admission and sale of prizes made by their cruisers."

Pollock not only sent military stores presented to Congress by the Spanish governor, but also made purchases of supplies amounting to \$65,814, for the State of Virginia, and sent them by batteaux to different points on the Ohio. His drafts, authorized by Governor Patrick Henry, came back protested, placing him in the greatest embarrassment, from which he was generously relieved by Don Bernardo de Ottero, the Spanish Treasurer of Louisiana.

The course of events at New Orleans, under the brilliant young governor, Bernardo de Galvez, whose name a city of the United States now bears, is described in papers in the *Archivias de las Indias*, and has more than the interest of romance. A somewhat tardy recognition of his aid to us is found in a despatch written by order of Congress on the 21st November, 1781. This despatch, signed by Robert Morris, addressed to General Don Bernardo de Galvez, says:

"I am directed by the United States to express to your Excellency the grateful sense they entertain of your early efforts in their favor. Those generous efforts gave them so favorable an impression of your character and that of your nation, that they have not ceased to wish for an intimate connexion with your country."



France, and the further hint given that if an American ship should look in there occasionally it would find the door of a certain magazine open, and something in it useful to the Colonies.

Nor was this the end of Spanish favors. Blankets for ten regiments were sent as a present to Congress, through John Langdon, of Portsmouth; ship loads of stores were despatched through the house of Gardoqui, at Bilbao; and when John Jay appeared at Madrid as Minister of the new States, without any provision being made by Congress for money to pay even his house rent, another gift of \$150,000 was made to him for us.

More yet. Though the declaration in regard to Capt. Lee was the earliest act of recognition by any power except France, Spain abstained from making a treaty with our Minister, for the very excellent reason that to do so would have been tantamount to a declaration of war against England, for which she was not prepared. But that eminent man who, on the 19th February, 1777, took the reins of power in Spain, Florida Blanca, was not idle. He immediately commenced building new ships and arming those already built — the annual expenses of the navy, usually about one hundred million reals, or five million dollars, were suddenly raised to twenty million dollars — and, in the spring of '79, thirty-six ships of the line, mounting more guns than any fleet she

ever had, being ready for sea, she declared war against England. This immense fleet, of which seven were three-deckers, of 100 to 120 guns, (our solitary three-decker, the *Pennsylvania*, has never yet got to sea), this immense fleet joined the French fleet, sailed to attack the common enemy, and during that and the succeeding year intercepted the troops and supplies which had been sent to aid in our conquest.

Florida Blanca did not stop here, but, while engaged in his naval preparations, made a treaty with the Emperor of Morocco which closed his ports to the English. He also opened relations with Hyder Ali in India, and fomented the war which that powerful prince maintained against England. Benjamin Rush, writing shortly after to General Gates, says, "Heaven prosper our allies! Hyder Ali is the standing toast at my table." Florida Blanca did not rest content with this, but used all the wiles of diplomacy and all the force of Spain, to make difficulties for England in every part of the globe. When we are disposed to stretch the hand of covetousness toward any possession of now weakened Spain, let us remember the helping hand she gave to us in our hour of suffering and of peril.

But the labors of Spain did not end with this. England, driven to desperation, used all her arts to draw the northern powers into her alliance, and with Russia succeeded so well that orders were issued

to fit out fifteen ships of the line at Cronstadt, and the intimation was given by the Empress Catharine to Sir James Harris, afterwards Lord Malmesbury, that this fleet would soon be ready to aid England in her contest.\* British Ministers announced the joyful fact, and one of their journals, even before the ice was open in the Baltic, declared that the Russian fleet had already arrived at Plymouth.

In one week all this was changed; and there suddenly appeared in the spring of 1780, the important declaration of Russia that led to the armed neutrality, which has been called by writers on inter-

\* On the 5th Nov., 1779, George III. wrote to the Empress Catharine: "The lively interest which you take in all that concerns Great Britain demands my thanks. In this, as on so many other occasions, I have admired the greatness of your talents, the extent of your knowledge, and the nobility of your sentiments. . . . The designs of my enemies will not escape your penetration. . . . The use, or the simple show, of a part of your naval force, would restore and assure the repose of all Europe by dissipating the league which is formed against me."

On the 11th January, 1780, "another sop," (to use the language of the 3d Earl Malmesbury, in vol. I. p. 269, of his grandfather's writings,) "was given to the empress." On the 19th January, Sir James Harris handed to Prince Potemkin a memoir, written to show that, should the allies prevail against England, America would supply France with hemp, pitch, timber, &c., to the detriment of Russian trade.

"On the 22d February, 1780," says Harris, "Prince Potemkin sent for me, and with an impetuous joy, said, 'I heartily congratulate you; orders will be given to arm fifteen ships of the line and five frigates; they are to put to sea early in the spring. . . . It is entirely owing to what you have advanced. . . . Your nation may consider themselves as having twenty ships added to their fleet. . . . I am just come from the empress; it is by her particular orders I tell it to you.' He ended by desiring me to despatch my messenger immediately, expressing his impatience for this event being known in London."—Malmesbury; *Diaries and Correspondence*, I., 279.

national law, "the charter of the liberty of the seas." By this, the empress declared that her fleet was fitted out, not to aid England, but to maintain the principles: that free ships make free goods—that the neutral flag covers enemies' property—and that no blockade which was not maintained by an effective force, no blockade made merely by the *London Gazette*, would be recognized as valid.

John Adams, then Minister at the Hague, saw at once the whole force of this step, and, in a despatch to Congress, said: "A declaration of war against England, on the part of Russia, could not have been more decisive,"—and again, "the pretended preëminence of the British flag is now destroyed." "Russia now will never take part with England, and all the maritime powers must either remain neutral or join against her."

In the House of Lords a wail of despair was set up. "I shudder," said the Earl of Shelburne, "when I think of this Russian manifesto; by it the independence of America is consummated;"\* and

\* "The doctrine," said Earl Shelburne, "of 'free ships, free goods' at once destroyed the law of nations as it had remained for many centuries; but that was not all; it must terminate in the ruin of Britain, at least in the overthrow of her naval power. . . . If France and Spain could transport their property to and from the western world in free because neutral bottoms, it was to the last degree ridiculous to say or believe that Great Britain could possibly be able to cope with the united force of the House of Bourbon. . . . Then farewell for ever to the naval power and glory of Great Britain!" — *Parliamentary History*, XXI., 629 et seq.

Lord Camden declared that "the queen of the seas was deposed, and her sceptre fallen!"

Desperate efforts were made by British Ministers to meet the emergency. Appeals were addressed to Denmark and Sweden, but without effect; and, during this year, 1780, Sweden, Denmark and Holland, joined in the league with Russia, which was in its effects a league of hostility to England. Holland also soon joined in the war; so that on one side stood England ~~solitary~~ and alone,—on the other, *un* using all their forces against her, the United States, France, Spain, Hyder Ali, Holland; while all the northern powers were armed, nominally neutral, but really hostile to her autocratic pretensions.

One of our wisest statesmen, John Adams, exclaimed a few years later: "We owe the blessings of peace not to the causes assigned, but to the armed neutrality." And who was the real author of the armed neutrality? Who conceived that act, and who, by his ingenuity and indefatigable perseverance, led Russia and with her the northern powers to adopt it?—Florida Blanca, the Minister of Spain. And to him and to his country, I here render the honor, with all the more pleasure that this has not usually been done, and that the documents which establish their claim to it are in my possession.

For such aid as the armed neutrality gave us—again we have to thank Spain.

With all this inequality of force the war still went on. Constant efforts were made by England to induce the Colonies to return to their allegiance; and, to their shame be it said, men were found ready to listen to her propositions; men who seduced by the hope of rewards, and by the promise of office for themselves or for their sons, consented to sneer at and to deny the principles of the Declaration. It was after intercourse with such men, that the intelligent agent of one of our allies wrote home to his government that there was more real enthusiasm for American liberty in the smallest *café* in Paris, than in a large portion of the society which he met.

Again and again were terms offered by England to Spain and to France, but the constant reply was, a refusal to treat until we were free.

Peace and freedom were at length secured; and from that time, through various vicissitudes and difficulties, our country,—by confidence in democratic principles, by faith in the people, and by the spirit of mutual forbearance and charity among them,—has gone on prospering and increasing, till in *material* force it stands among the mightiest; and, did we but always act up to the immortal truths of the Declaration, would, in *moral* force, be the mightiest of the earth.

While the old world, to which we turned for succor against our unnatural parent, is echoing to the clang of arms, and hostile legions stand arrayed for combat,

“ We may live securely in our towns ;

We may sit

- Under our vines, and make the miseries  
Of other nations a discourse for us,  
And lend them sorrows ;—for ourselves, we may  
Safely forget there are such things as tears.”

But it is not in man to be indifferent. The enduring sympathies of our nature demand an object ; and besides, our early ties to France must make us feel a special interest in her actions and destiny. What, then, is the object of the war in which she is engaged, and what responsibility have we in the contest ?

The actual war between Italy and France on one side, and Austria on the other, is but the continuation of our own struggle on another field—the struggle for independence, equal rights and self-government. How far these may be secured by the present contest is very uncertain ; but there is no uncertainty in this, that our warmest sympathies are due to all who strive for them.

In the present case these sympathies are augmented by a remembrance of all we owe to Italy—that beautiful country which the Apennines divide, the

Alps and sea surround — Italy, which has given us so much of all that adorns and elevates life; the home of art, of science, of medical skill, of political knowledge: of Galileo, Raffaël, Michael Angelo, of Fallopio and of Volta: the land which in modern times has given us the earliest epic poet, Dante; the great lyric poets, Petrarch and Filicaja; the earliest novelist, Boccaccio; the first philosophical historian, Machiavelli: and the founder of the philosophy of history, Vico, whose great mind has brought to the development of political science and the laws of the moral world the same precision that Galileo had brought to those of the material world.

To Italy we owe the mariner's compass, the barometer, book-keeping, the telescope applied to astronomy, the calculation of longitudes, the pendulum as a measure of time, the laws of hydraulics, the rules of navigation: and to Italy we owe both Columbus, who discovered, and Amerigo Vespucci, who gave his name to our country.

To Italy we owe also some of the most important lessons of political philosophy. Her Republics of the middle ages were based on the three great principles:

1st. That all authority over the people emanates from the people.

2d. That power should return at stated intervals to the people.



3d. That the holder of power should be strictly *responsible to the people* for its use.\*

To those Republics we also owe the practical demonstration of the great truth, that no State can long prosper or exist where intelligent labor is not held in honor, and that labor cannot be honorable where it is not free.

Our sympathies are augmented by a remembrance of all this, and by the natural horror inspired by Austria — to whom civilization for three hundred and thirty years owes nothing,— whose whole career, both at home and abroad, has been a series of blackest crimes against the political rights of States, and the individual rights of man,— and who is now under the despotic control of an emperor, himself a deplorable example of the union of youth and cruelty.

But there are some, happily their number is small, who, having no faith in the people, look with indifference upon their efforts,—and others who try to cloak the selfishness and imbecility with which nature has endowed them, under an assumed superiority over the people of other countries,—who tell us that

\* “The whole system of Italian liberty is represented in these three axioms. In fact the Italian republics were freer than those of Germany, than the imperial and Hanseatic cities, than the Swiss Cantons, than the United Provinces, perhaps even than the republics of antiquity. All these had sought, not the security, but the sovereignty of the citizens; not to protect the citizen against the government, but to create a government to the power of which, with a blind and unlimited confidence, they neglected to fix any bounds.”—Sismondi, *Histoire des Républiques Italiennes*, XVI., 394.

other nations are not fitted for free institutions,—who seem to think that they have a patent for freedom, and an exclusive right to enjoy it,—that they are God's chosen people, and that all others are made only to be ruled by tyrants.

Others, again, who have a sense of natural right, and common sense besides, but whose natures are not hopeful, point to the example of France, and in her failures to maintain a stable republican government, find, as they imagine, the justification of all their misgivings. As the events now passing in Italy must produce a recoil in France, and as the power of self-government in Italians will by some be judged of by that exhibited by the French, it may be well to look for a moment at this.

It is only stating what many wise French writers have admitted, that their Revolution of 1789 was brought on by our own. Before '76, the labors of Fenelon, Montesquieu, Turgot, and other French philosophers, had developed ideas upon the rights of man, and the science of government, which, to this day, stand as the landmarks of an advancing civilization. They had all asserted the natural rights of man, and all recognized that nations had rights flowing directly from these, and not drawn from old charters or from musty parchments. With this there was, on their part, a large and generous appreciation of the rela-

tions which should subsist between different countries.

Montesquieu had laid down the proposition, for which he is sharply attacked by Lord Brougham, that “the whole system of international law is a set of obvious corollaries to a maxim in ethics — that in war nations should do as little injury, and in peace as much good to each other, as is consistent with their individual safety.”

Turgot, the great statesman, whose Latin inscription for a memorial of Franklin\* has been adopted by the city of Boston — and who may be called the father of free-trade — Turgot had labored for three great objects :

1st. To check religious intolerance.

2d. To reduce, and finally suppress, standing armies.

3d. To establish free trade.

And the whole political code of this hard-headed, practical statesman and successful financier, may be summed up in his declaration that “when called upon to decide if any measure were useful for France, the

\* Turgot’s first inscription was in French verse :

Le voilà ce mortel dont l’heureuse industrie,  
Sut enchaîner la Foudre et lui donner des loix,  
Dont la sagesse active et l’éloquente voix,  
D’un pouvoir oppresseur affranchit sa Patrie,  
Qui désarma les Dieux, qui réprime les Rois.

Which, subsequently, he condensed into this admirable line :

Eripuit Cœlo fulmen, sceptrumque Tyrannis.

*Oeuvres de Turgot, IX., 140.*

question must first be asked, *Is it useful for all mankind?* for whatever temporary advantage may appear to accrue from acting on a different principle, nothing in the long run can be good for one nation which is not good for all."

These philosophers turned their eyes toward England, as then offering the only example in the world of a certain degree of liberty; this they recognized in the independence of her judiciary and in the grand principles — fortunately our heritage — which guided it. The words of Algernon Sidney were familiar to them: "Common sense declares that governments are instituted, and judicatures erected, for the obtaining of justice. The king's bench was not established that the chief justice should have a great office, but that the oppressed should be relieved, and right done. The honor and profit he receives, come as the rewards of his service, if he rightly perform his duty." And again: "The power with which the judges are entrusted is but of a moderate extent, and to be executed *bona fide*. Prevarications are capital, as they proved to Tresilian, Empson, Dudley, and many others." \*

No passage from Sidney was more frequently referred to than this: "They who uphold the rightful power of a just magistracy, encourage virtue and

\* Sidney; *Discourses on Government*, chap. iii, sec. 26.

justice; teach men what they ought to do, suffer, or expect from others; fix them upon principles of honesty; and generally advance everything that tends to the increase of the valor, strength, greatness and happiness of the nation, creating a good union among them, and bringing every man to an exact understanding of his own and the public rights. On the other side, he that would introduce an ill magistrate, make one evil who was good, or preserve him in the exercise of injustice when he is corrupted, must always open the way for him by vitiating the people, corrupting their manners, destroying the validity of oaths and contracts, teaching such evasions, equivocations and frauds, as are inconsistent with the thoughts that become men of virtue and courage.”\* The declaration of Chief Justice Lee was also cited by them with admiration — “One rule can never vary in our courts, viz., the Eternal rule of Natural Justice.”†

Montesquieu had shown in his great work that the separation of powers, judicial, executive and legislative, was the basis of all free government; and, acting upon this, much had been done, even before '89, to improve the administration of justice.

\* *Ibid*, chap. iii, sec. 20 : III, 129. Edit. 1805.

† These words of C. J. Lee will be found in the case of *Omychund v. Barker*, Atkyns' Reports, I, 46.

The Constitution of '89 gave to France self-government, and recognized the sovereignty of the people. No honest man had anything to fear from this Constitution, but all who lived by oppression and wrong were filled with dismay. The Christian doctrines of Turgot and Montesquieu, and the principle that governments were made for men, and not men for governments, shook the despotic thrones to their base. Their trembling occupants conspired at Mantua and Pilnitz, and formed a league to crush the constitutional government of France.

In August, 1792, the armies of despotism arrived on the frontier, threatening to overturn that government, and, if opposed, to reduce Paris to ashes. Then, in the fear and frenzy which ensued, began those acts of violence which have left a stain upon the French Revolution. "Nothing," says one of the most conservative writers upon international policy, "can ever justify one State's interfering with the internal affairs of another; and the worst of mischiefs (the execution of those who have aided it) must ever be the result of such interference;" and it is to this infamous and unprovoked attempt to interfere by arms with the internal affairs of France, that we must trace the death of Louis XVI., and all the violence and all the difficulties which followed it.

France had done nothing to provoke interference;

and, left to herself, might and probably would have organized and sustained a good government. This assertion I boldly make, conscious that it does not accord with what some of us have been taught. The enemies of liberty have not scrupled on every occasion to distort the truth, and have even on one occasion found an accidental ally in a President of the United States.

Mr. Millard Fillmore, in the last annual message he sent to Congress, says that France showed a desire to force her form of government upon all the world, and points to a decree of her Convention, declaring she was ready to succor oppressed nations struggling for liberty, as the false step which brought against her the coalitions and armies of Europe. Had Mr. Fillmore but looked at the facts, he would have found that the provocation to hostilities came not from France, but from the despotic confederates; and that the decree in question, at the same time that it showed a generous spirit, was also a measure of self-defence. The Convention of Mantua was signed 20th May, 1791; that of Pilnitz the 29th August, 1791; and it was not until the 19th November, 1792, after the actual invasion of France, and eighteen months after the first coalition against her, that the Convention voted the decree which President Fillmore leads us to infer was the cause of that invasion and

of that coalition; the cause, in presidential logic, coming eighteen months after the effect.\*

But there are too many who speak of France, not with any accurate knowledge of facts, but with reckless assertion, and a seemingly wilful blindness to truth and to principle.

This is not the place for long dissertations, but a candid examination of facts will show that the French people have never yet had a fair chance. From 1792 to 1830, the prolonged pressure upon France of despotic Europe, under the lead for a long time of England, prevented her from forming a good government. The revolution of 1830 secured the rights of only 240,000; the thirty-six millions of Frenchmen being declared by Guizot to be no part of the "lawful country."† The revolution of 1848 made of these outlaws citizens, and they marked their possession of power by securing to France three thousand new school houses—by giving her cheap postage—by making all bondmen in her colonies free—and by placing for two years her budget in equilibrium. During the eighteen years of Louis Philippe's reign the

\* A statement of Lord Brougham has led many persons into this same historical error. "The famous decree of 19th November, 1792, was a main cause of the dreadful war which so long laid Europe waste, and overthrew so many established governments."—*Brougham VIII.*, 79. But the invasion of France took place some time before this decree.

† "*Je ne connais que le pays légal.*" Guizot—Speech in the Chamber of Deputies,



expenses had been every year fifty million dollars more than the receipts, while under Louis Napoleon the annual deficit has been upwards of one hundred million dollars. To the Republican government of 1848 belongs the exclusive honor of having, for two years, kept its cash account square.

This government fell, through the perjury of an usurper, and through the passive obedience of a standing army — an army which despotic coalitions had taught France to regard as necessary for her safety.

Before we revile the French people for having permitted this usurpation, let us remember that it was not accomplished without a bloody resistance, and that the people in the provinces showed the spirit of self-government which was in them, by refusing for a long time to submit to the dictation of the capital.

Let us remember also that our own Congress, sitting in Philadelphia, was in 1783 ~~dispersed~~ by armed *as* invaders of its Hall, and took refuge in another city.

Let us again remember that on this very day, three years ago, an assembly of the people in a territory of the United States, peacefully discussing the formation of their institutions, was dispersed by the bayonets of the Federal army.

One of the most acute and learned of living American publicists — worthy son of worthy sires — Mr. Charles Francis Adams, in the admirable notes to the writings of his grandfather, suggests the single legis-

lative assembly as one great cause of the want of stability of Republican forms in France; and, in regard to the Italian Republics of the middle ages, he alludes to the absence of a respect for the rights of the minority as one of the latent causes of their downfall. This same observation upon the minority has been applied by others to France.

It may not, perhaps, be generally known that the adoption of a single chamber in France was due, in a great degree, to the labors of our own philosopher and statesman, Franklin. As President of the State Convention of Pennsylvania, he had secured the adoption in their constitution of a single chamber—in his writings he had praised it—and the Committee of the French National Assembly, La Rochefoucauld, Sieyès, Mirabeau and others, give to Franklin the honor of having aided them, as they say, “to clear the legislative machine of its multiplied movements and much praised balances, which made it only complicated and cumbersome;” and this opinion of Franklin was also relied upon in the adoption of the Republican Constitution of 1848. While admitting the error in this, we may surely pardon something to those who have been led astray by faith in our own great men.

In regard to the rights of minorities, every revolution in France has shown an increasing respect for them on the part of the people; and in the most

violent popular clubs of 1848, were heard words like these: "We ask no exclusive legislation for ourselves; on the contrary, let us remember always to guard the rights of the minority; as the law of civilized States throws its tutelary protection with special force over minors and wards, so let us, being in power, remember that the defeated minority are our wards, and that we are their responsible guardians." Compared with a sentiment of high and generous statesmanship like this, coming to us though it do from a "red republican" club in Paris, what an ignoble contrast is presented by that cry of demagogues — that Indian war-whoop of party leaders — "to the victor belong the spoils."

Under all recent governments in France, the spirit of inquiry in her people has remained ever active, and the character of her judiciary generally unspotted. The reply of President Séguier to an improper demand of power will be recalled: "The court renders judgments, not favors." Under the first Napoleon, some of the courts, it is true, degenerated; but the Paris bar has punished, by remembering, the judge whose often repeated formula was: *L'empereur a dit, et je vous le répète* — "the emperor has said, and I repeat it" — and one of the declared reasons for the overthrow of Napoleon was, that he had "confounded all powers, and destroyed the independence of the judiciary." \*

\* See the *Senatus Consultum* of April, 1814, Sec. VII.

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Every change in France has shown a higher development, a larger education, and a greater power of self-government on the part of her people. It has taken England some six hundred years to bring her parliamentary machine into its actual state; and yet, only four years ago, the husband of Queen Victoria publicly stated, at the Trinity House dinner, that it must be regarded as still on trial. Let us not, then, question the capacity of the French, or the Italian, or the German people, simply because they may fail to achieve in six months what England has worked upon for six centuries.

But, we are told that Italy will only change its master, and that France will take the place of Austria. It is not the interest of Louis Napoleon to remain in Italy, nor is it possible, under any circumstances, for France to degrade herself to the level of Austria.

The career of the elder Napoleon in Italy, which was such as to cause his name to be still revered there, may here be safely appealed to. Industry was awakened and encouraged, schools founded, the sciences stimulated, and academies organized by him who had destroyed them in Paris. The courts were changed, and in place of a system which favored and even required servile and corrupt judges, one was installed which led to the impartial administration of

justice. The armies of France, under Napoleon, brought to Italy some of the fruits of the revolution of '89. If the worst predictions of the enemies of the war should be fulfilled, and Italy gain by it only a French master, it would still, judging by the past, be a change from darkness to light, from a government of the most loathsome brutality to one of comparative civilization.

And here let me say, that if I seem to speak harshly of the Austrian domination in Italy, it is because, with my own eyes, I have seen its effects. I will not sadden this day by the recital of atrocities, the remembrance of which, even at this distance, chills my blood. To me it seems incredible that any one can be found ready to defend the government which practises them.

Nor has Italy received anything from Austria in exchange for all her sufferings. The well made roads, which are pointed out to the stranger, were nearly all the work of Italian engineers during the time of Napoleon; but even if some material improvement had been made, it would be as nothing compared to the immense amounts Austria has drawn from Lombardy, by forced loans and by crushing taxation. About fifty per cent. of the revenue of land-owners goes to the Austrian treasury; "and all we get in exchange," said a Lombard to me, "is, once a week, the music of an Austrian regiment."

But give Italy a fair chance. Take from her the incubus of Austria. Take away those bayonets, with which, through a blind reverence on the part of other States, for existing abuses and the balance of power, Austria has been allowed to transpierce her. "Let the thief and the receiver, the murderer and the robber be no longer suffered to play the part of watchmen" in Europe, and no one can doubt the result for Italy.

It does not follow that a perfectly balanced government will leap at once into life. Difficulties of internal organization doubtless will arise. Mazzini will strive for a united, central republic, while others will be glad to place themselves under the constitutional system, which has developed statesmen like Cavour and Azeglio, to plan their wars and alliances, and brave captains like Victor Emanuel, to lead their armies. These differences of opinion will create discussion, into which, perhaps, excited feeling will sometimes enter; our own conventions will have set them the example; but to all prophets of evil it is sufficient to say, that the Italian people have the perfect right to judge of their own institutions, and if they find pleasure in it, to wrangle over them. They may, perhaps, think that nothing is so good as the jar of a constitutional discussion to shake up the stagnant elements of a slumbering society. Looking from a distance, if we might venture to express

desires upon a matter which exclusively concerns the Italian people themselves, it would be that, with some changes in the actual boundaries of States, representative institutions, securing the largest liberty, should be founded in each of them, and a central federative government be created to administer such powers as the several States should confide to it.

The "United States of Italy" thus formed would satisfy the love of unity, so strong in the Italian heart, while the State organization would give full play to that spirit of local and municipal liberty, which, in former days, was so fully developed in the Italian Republics.

The great work of this war would however be very imperfectly done, if it stopped with the liberation of Italy. Already in 1848, the unaided Italians having taken Peschiera, and driven Austria under the walls of Verona and Mantua, which, for some time to come, will probably be her stronghold, she offered to treat with France and England as mediators for the surrender of Lombardy, provided the new State would assume a portion of her enormous debt.

If nothing be done now but to rescue Italy, and peace be then made with Austria, that peace can be only a truce; for we may expect, in a short time,

to see her return to her old course, and again, by her outrages, disturb the civilization of the world.

After Italy is secured to freedom, there still remains Hungary.

This country, whose constitution goes back almost to the date of Magna Charta, and which had preserved its political independence, though exposed to every species of encroachment from the Austrian archdukes, whom, in an evil hour, it had invited to its throne; this country, so brave and so unfortunate, merits all our interest, for it is the home of heroes, and of self-sacrificing, honorable men.

Some five and twenty years ago, several Hungarian noblemen visited the United States, travelled throughout the country, and had the good fortune in Boston to form an intimacy with a gentleman whose views upon European questions were as enlightened as his general knowledge was varied and profound — Mr. Alexander H. Everett. On their return to Hungary, one of their number, Farkas Sandor, published, in the Magyar tongue, a book pointing out the working of our institutions; and, while rendering thanks to Mr. Everett for the counsels received, recommending the policy of the Northern States as an example for Hungary. The German translation of this work was prohibited by Austria, but the Hun-



garian edition had already gone beyond the reach of her police. The effect of the excursion to America was soon apparent. At the next session of the Diet, Baron Wesselenyi, Count Bathjany, and others of the travellers and their friends, proposed a series of measures tending to the abolition of those feudal privileges which divided the Hungarian people into hostile classes, and proposed at once to lay down their titles and their power for the common good.

Austria now took the alarm. She had always pretended to be the friend of the peasants against the nobles,—but when the nobles proposed to give up their privileges and emancipate the serfs, she then used all her power to oppose them. There was a deep and wicked policy in this; it being the aim of Austria to keep up such a hostility between classes, such a war between capital and labor, that she might be able at some time to completely subjugate Hungary, by calling upon the peasants to cut the throats of the land-owners. And this, in the spring of 1846, she actually did, in the neighboring province of Galicia.

Shortly after, two men appeared upon the scene, Count Stephen Sechenyi and Louis Kossuth. Sechenyi sought the advancement of Hungary through material improvements; Kossuth sought it through the education of the people, and by awakening in the minds of the more fortunate classes of society

a sense of their duties. By securing to the peasants the right of voting for a delegate to represent their villages at the general election,—thus bringing home to them the practice of free institutions, without, however, creating such a mass of new voters as would suddenly disturb the general result,—by settling the eternal question of capital and labor, and making the holders of each clearly understand that their real interests are reciprocal; by these and kindred measures—which prepared the way for that larger liberty secured to all classes during the constitutional ministry of Kossuth—that eminent orator and tribune showed himself in Hungary to be a great, practical, conservative statesman.

The Emperor of Austria having called in foreign troops to put down the legal government of Hungary, and having neglected to take the oath of allegiance to her Constitution, which the compact between the Hungarian nation and the Dukes of Austria made the indispensable preliminary to any act of sovereignty on his part, the Diet, in the name of the people of Hungary, on the anniversary of the battle of Lexington, 1849, declared that all connection between them and the house of Austria was dissolved.

The noble struggle made by the Hungarian people is still fresh in your memories. The forces of despotism were too strong, and their country fell.

Had any other State recognized their independence, it would have enabled them to contract a loan, and to purchase the arms necessary for the contest. Our own Congress was unable to contract any loan until our independence had been recognized in Europe. To the eternal honor of Mr. Clayton, then Secretary of State, a commissioner was despatched with full powers to enter into negotiations with the new government; but he, alas! arrived too late.

England looked calmly on while a government similar to her own was destroyed by foreign arms. Had she, in the summer of 1849, opened relations with the constitutional government of Hungary, which she could have done without shaking any existing right; without even giving any just cause of disturbance to "those finical personages who," in the words of an English peer, himself a negotiator, "have brought a sort of ridicule upon the name of diplomacy;" had she then taken her stand upon the Pragmatic Sanction of 1723, and upon the coronation oath of the last king—both which documents, duly filed away in red tape at the foreign office, make part of the public law of Europe, and by both which the Austrian sovereigns recognize the political independence of Hungary—had she done this, she might have spared herself all the sacrifices of her war in the Crimea, and all the embarrassments of the present contest.

Then there might have been at the present moment a great Constitutional State, on the banks of the Danube, having municipal institutions which secured local rights, and a population accustomed to constitutional forms, and to liberty founded on law. Here would have been a nucleus round which the different provinces of Turkey might have clustered, as they dropped away from her corrupt body; and Hungary, Transylvania, Valachia, Moldavia, Servia, Bosnia, and Bulgaria have formed the "United States of the Danube,"—a grateful and efficient ally for England. But the blind admiration for Austria on the part of the English aristocracy, strengthened by the labors of Metternich, then in London, would not permit this recognition.

"Of all the subjects which can come before the people at large," says Lord Brougham, in one of his political essays, "the foreign policy of the State is the one on which they the least deserve to be consulted. Their interests are most materially affected by it, no doubt, for on it depends the great question of peace or war. But the bearing upon their interests of any particular operation is far from being immediate, and a measure may be most necessary for securing the peace, even the independence of the nation, and yet its connexion with these great objects be far too remote for the popular eye to reach it." \*

\* This was written in 1843. See *Brougham's Works*, vol. viii, p. 93.

The events of the year 1849 in England, offer a singular commentary upon this dogma of Lord Brougham. Then the *people* saw clearly the interest of England; the ruling classes did not. The people flooded the House of Commons with petitions for the recognition of Hungarian Independence; the aristocracy remained idle. A few like Lord Lyndhurst, the Marquis of Northampton, and the lamented Earl Fitzwilliam were true to themselves, and acted like enlightened English noblemen, but the greater part stood in cold indifference to Hungary, or joined the sharers in Metternich's Eaton Square dinners, in looking with delight at the triumph of her enemy.

And what is this Austrian empire, in sympathy for which the ruling classes of England forget the interests of their country and the interests of humanity? An agglomeration of States, differing in nationality, language and religion, brought together by fraud and violence, and held by brute force, in subjection to a government the most infamous in history.

Bohemia, the land of John Huss and Jerome of Prague, was annexed after a series of atrocities which make the Spanish Inquisition appear respectable in our eyes. Three million inhabitants were reduced to seven hundred and eighty thousand, and of thirty thousand seven hundred villages, only six thousand were left standing.

Excepting the Tyrol, the same atrocities, though in less degree, have been practised in every one of the different States;—the forces drawn from all being used against any one which showed a spark of liberty. As a general rule, the soldiers of each State have been sent to distant provinces, of the language of which they were ignorant, and where there was little probability that any relations would spring up to weaken the blind submission imposed on them by military servitude. Sometimes, as in the recent battles in Italy, the young soldiers, torn by her conscription from the soil, have been placed by Austria in the front rank, and fired upon from behind, did they shrink from slaying their friends and deliverers.

The government of this empire has, when in danger, constantly promised reforms in the provinces, and as steadily opposed reforms when the danger was passed. Its permanent policy has been to keep up a state of endless hostility between classes; to rule by dividing, by making appeals to the most anarchical passions, by exciting to plunder, and even, as in Galicia, to assassination.

This government is not an aristocracy of virtue, of talent, of birth nor of wealth, but of soldiers and bureaucrats; whose practice on many occasions has been the development of the principles of the most exaggerated communism. Property has not been respected by them any more than liberty;—when-

ever the treasury was empty, it has had no rights sacred in their eyes.

The Austrian government has not scrupled, over and over again, to repudiate a large portion of its national debt, to cut down to one-half their nominal value its treasury notes, and to collect forced loans. All Europe would have rung with indignation had any of these deeds been done by a liberal government. The culminating outrage, however, of Austria upon the rights of property was perpetrated in 1852, when the emperor, proclaiming himself the guardian of all minor orphans, dispossessed the rightful guardians and trustees, seized upon four hundred and seventy million dollars — the heritage of the fatherless — and gave in exchange his own promises to pay.

The personal violence committed, even in the old German provinces, would seem almost incredible to one who had not himself witnessed it. The printed law prohibits the flogging of women. The governor of one of the provinces, with whom I happened to be well acquainted, pointed out to me this law, which he had shown a few days before to an English nobleman who admired Austria. "Here," said the governor, showing me the law, "is the *text*, and here," handing me reports from the police, describing the flogging of two women that very morning, "*here is the sermon.*"

One of the greatest sticklers for existing States, and upholders of the actual balance of power, Lord

Brougham, speaking of the partition of Poland, has said, "It would not be easy to see any danger arising to the North American Union from that partition in 1793-4, or the Holy Alliance in 1816 and 1820; and yet it is certain that the Americans had a right to complain of such acts being permitted, because the impunity of the wrong-doers gave a blow to the political morality of all nations, and lowered the tone of public principle. The United States were interested like all other countries, in seeing that the principle of National Independence was held sacred, that none could conspire against it with impunity."\*

If this be true, then certainly we have a right to protest against the conduct of Austria, which is a prolonged violation of the principles of national independence, and of political and private morality; and since it is now clear that it is only by this conduct that she lives and moves and has her being — that her existence hangs upon injustice and outrage — then, following up the reasoning of our statesman, so conservative on questions of foreign policy, we have a right to protest against the very existence of the Austrian empire.

Civilization and humanity demand that this wretched machine of cruelty should be broken up; that this opprobrium of the nineteenth century and of the

\* Essay on General Principles of Foreign Policy. *Brougham's Works*. vol. viii., p. 76.



human race should be resolved into its elements — and the so-called emperor, with the German provinces, take his place, an humble archduke, in the German Confederation.

Then might Galicia and Bohemia resume their position with the Slavonic family; then would Hungary become again free; and then Germany, no longer having Austria to crush her, as in 1850, with the forces of States foreign to her, might awaken to a new life, and found a government in which liberty and order should be secured by making the German people interested in their maintenance; a government in which her men of science should take their true position, which should not condemn to death her poets, nor cause her historians to pine in dungeons\* — which should not force her Humboldts to vote with the opposition, nor drive her Bunsens into political exile. Then might there be peace, and not merely a truce in Europe; and the beneficent plans of Turgot for reducing standing armies be carried out.

But the great obstacle to this happy consummation is the policy which the ruling classes in England impose upon her government. The crimes of Austria may be traced directly home to England, as without the moral support of that power she could not stand a twelvemonth. The traditions of the foreign office,

\* As was the case in 1850 with the poet Kinkel, and with the Professor of History in the Heidelberg University, Gervinus.

and of the governing classes, based on the events of a hundred and fifty years ago, point to the house of Austria as the necessary ally of England. Scarce one of the conditions which then led to that alliance exists now. Thus it is ever with European policy. Men of genius conceive a system appropriate for a given series of facts; the facts change, but formalists, unable to appreciate the *motive* of the system, move on in the old track to their own perdition.

Knowing how completely her existence depended upon the favor of England, Austria has used all her wiles to retain it. Weak young Englishmen of family, attracted to Vienna by its cheap and facile vices, have been caressed and flattered. On the arrival of Englishmen of any political importance, immediate notice has been given by the police, and the hint conveyed to certain adherents of the crown to treat them with hospitality, and to twine Austrian corkscrews round their hearts.

She has also used her money successfully with a portion of the European press. Hence the blatant articles we have read upon a march to Paris. Attempts have even been made in this country, but, to the honor of the American press, no editor has been found willing to soil his hands with the money stolen from the orphans of Vienna.

On the great questions of the day the English *people* are perfectly sound, but the foreign policy of

England is directed by men who care but little for the popular sentiment; who decide questions neither by rules of natural right, nor by the dictates of a far-seeing statesmanship; and who, be they Tories or Whigs, have a devotion to Austria so blind and so infatuated, that it can only be disturbed by the fear of losing their places, or the fear of bringing upon England a great calamity.

And here begin our duties and our responsibilities. In whatever contest ensues, our sympathies should be with those who strive for their natural rights; with those who strive to imitate us in what we have done of good; and to them we owe all the aid we can give, without directly plunging into the contest.

No English ministry would rashly enter into a war, which promised to be long and complicated, without assuring and strengthening its friendly relations with the United States. This may now be regarded as a rule of English polity. Let us make the English government clearly understand that in no case, and in no form, can it have aid from us, in any measure tending to uphold the house of Austria. More, let us say to that government, that in such a course, she shall have, at all times—and in every manner, short of actual war, by which we can reach her—our determined hostility.

Let us do for the old world what the old world did

for us in our struggle for Independence. Let us, in favor of the right, interpose another "ARMED NEUTRALITY"—a neutrality armed, not with the cannon of Catharine, but with the printing press and the electric light of truth. And the mighty public opinion thus created, shall come to aid the English people in keeping their rulers in the path of duty, of justice, and of humanity.

But our responsibilities do not stop here. We owe it to those who look to us for a model, *we owe it to ourselves*, to give them an example of good government; of a government which at all times and in all places is true to the memories and to the principles of the day we celebrate; of a government free from corruption; and so well balanced that it never permits the encroachment of any one of the three great branches of power upon the legitimate field of another.

We have already seen that, even a century ago in France, the idea of civil liberty implied an independent, but rigidly responsible judiciary, and a complete separation of the legislative, executive and judicial functions.

It was an old rule of the Parliament of Paris that no member of that court should go to the Louvre, or frequent the houses of princes; and in England, without there being, as I believe, any positive rule, custom

requires that the puisne judges shall never go to the Court of the Sovereign. This provision is one of many to keep the judiciary above even the suspicion of making itself an instrument for despotism in the hands of the executive.

In France, where the theory of institutions is more closely studied than in England, ample provision has been also made to prevent any usurpation by the judiciary of the functions of the legislature.

One of the most ingenious and profound of modern authors — Jules Simon — speaking of the progress in the development of judicial institutions, even in countries where but little progress has been made in other things, says: “If placed before judges a thousand miles from home, and called on to plead a cause, I know that if my cause be just, and my judges be honest, I shall win it; and this because the great principles which regulate the conduct of judges are everywhere the same.”\*

Of these great principles, one of the most important is that which confines the judge strictly to the case and point before him, which does not permit him to wander from that, and which forbids him, under any pretext, to make of the judicial bench a tripod or a stump.

\* *Le Devoir, par Jules Simon.* Simon, like Arago, gave up lucrative places under the French government, rather than swear allegiance to a usurper. He has just been nominated to the chair in the Institute, made vacant by the death of de Tocqueville.

“An opinion,” said Chief Justice Vaughan, “given in court, if not necessary to the judgment given of record, is *no* judicial opinion;”<sup>\*</sup> and Chief Justice Willes says, “great mischiefs must arise from judges giving such opinions.”<sup>†</sup>

The great legal minds of France have spoken with even more force. “The judge,” say they, “is necessarily confined strictly to the point legally brought before him. If he permit himself, even with good intentions, to wander from this—to express from the bench opinions upon other matters—opinions which it is true would have no judicial value, but which might have an effect upon timid and ignorant minds—he *unfits himself for the office of a judge*. He throws away the impartiality which he should have when a point, similar to that which he has discoursed upon, comes lawfully before him; and he encroaches upon the first branch of the sovereign power—the legislative—all which is inadmissible ~~in~~ a well-organized society.”<sup>‡</sup>

\* *Bole v. Horton*, Vaughan’s R. 382. “An extra-judicial opinion given in or out of court is no more than the prolatum or saying of him who gives it, nor can be taken as his opinion, unless everything spoken at pleasure must pass as the speaker’s opinion.”—*Ibid.*

† Willes, 666. See also Ram, *On Legal Judgment*, 22.

‡ See the debates upon the adoption of the Code Napoléon for a full discussion of this interesting subject; also Berryat de Saint-Prix, *Cours de Procédure Civile*; and Meyer, *Origine et Progrès des Institutions Judiciaires en Europe*. This last authority, speaking of the courts of civilized states, says: “Penetrated with the truth that courts are established in order to bring dif-

In no country has the judiciary been more constantly respected than in our own. It has deserved respect, for it has respected itself. The decisions of Marshall, of Story, and of Curtis have been adopted as law, in the courts of other countries. The severe criticisms of Jefferson upon the Supreme Court of the United States have not generally been concurred in by the intelligent mind of the country. He charged that court with arrogance, and with having both the power and the will to overturn the constitutional liberties of the country.\* Upon no point was the

ferences to an end; that their authority is based only on the requisition of parties who implore their aid; that, in one word, judges are made for pleaders, and not pleaders for judges; the legislator has laid down the principle that the judge can give no decision or opinion except upon the requisition of one of the parties to a suit, and in the limits fixed by that requisition. The judge is free to grant or to deny what is asked; to ask for further information without which he feels unable to decide; to allow a part only of what is asked; but he cannot exceed the demand made, neither in quantity nor in quality. . . . The judicial power is by its very nature *passive*. He who holds in his hands the balance of justice cannot lean to one side without causing it to incline. The judge who agitates, under whatever motive or pretext, cannot be impartial.”—*Meyer*; IV., 527 *et seq.*

\* Jefferson says, in 1820: “The judiciary of the United States is the subtle corps of sappers and miners constantly working underground to undermine the foundations of our confederated fabric. They are construing our Constitution from a co-ordination of a general and special government to a general and supreme one alone. This will lay all things at their feet. . . . Having found, from experience, that impeachment is an impracticable thing—a mere scarecrow—they consider themselves secure for life; they skulk from responsibility to public opinion, the only remaining hold on them. An opinion is huddled up in conclave, perhaps by a majority of one, delivered as if unanimous, and with the silent acquiescence of lazy or timid associates, by a crafty chief judge, who sophisticates the law to his mind by the turn of his own reasoning.”—*Writings of Jefferson, published by order of Congress*, VII., 192. See also pp. 199, 216, 256, 278, 293, 321, 403.

great father of American democracy more earnest than upon this; and no opinion of his brought upon him more severe attacks from his political opponents.

Hamilton, in earlier days, and more recently the learned Justice Story, insisted on the other hand, that it would be difficult and almost impossible for the Supreme Court to go astray—that the cases upon which it could lawfully act were strictly limited,\* and Story declared that, should it ever exceed its powers or make a wrong decision, the enlightened public opinion of the country, closely watching it, would recall it to a sense of duty.

A recent scene in the Supreme Court of the United States has shown that Jefferson was no false

\* Hamilton's opinions upon the limited power of the Supreme Court as laid down in the *Federalist* are further developed in the 3d and 4th vols. of the *History of the Republic* by his son, John C. Hamilton. Story, in his *Commentaries on the Constitution*, §1777, 2d edition, says: "The functions of the judges of the courts of the United States are strictly and exclusively judicial. They cannot, therefore, be called upon to advise the president in any executive measures, or to give extra-judicial interpretations of law."

Some confusion exists in the popular mind from the often repeated assertion that it is the province of the Supreme Court to decide all constitutional questions. Story says: "The court can take cognizance of them only in a suit regularly brought before it, in which the point arises, and is essential to the rights of one of the parties." Precisely as the humblest Justice of the Peace would do. The debates in the Federal Convention show the exact meaning attached to the words of the Constitution, extending the judicial power of the United States to "all cases arising under the constitution, laws, and treaties of the United States." Mr. Madison feared that this might be interpreted to mean questions, but it was understood that the power given was "limited to cases of a judicial nature."—See Madison's debates, Elliot V., 483; also Curtis, who ably discusses this point, *Commentaries on the Jurisdiction of U. S. Courts*, I., 95.



prophet, and has furnished at the same time a serious warning to all who prefer a government based upon law, to either despotism or anarchy.

The case of Dred Scott was the occasion taken by certain judges of the Supreme Court, to speak from the bench on matters not legally before them\*—on matters which they had no right in their judicial capacity to discourse upon—which, *as judges*, they could not touch without encroaching upon the functions of the Legislature, nor as *individuals* without prostituting the dignity of their office; converting the Temple of Justice into another Tammany Hall, and the Supreme Bench into a caucus-platform. And one of these harangues, that of Mr. Taney, was but a short time after seized upon by the Chief Executive Magistrate of the country, treated by him as a decision, and made the justification of a particular line of policy;—a policy tending to make labor dishonorable in the Territories of the Republic.†

\* “Many things were said by the court which are of no authority. Nothing which has been said by them, which has not a direct bearing on the jurisdiction of the court, against which they decided, can be considered as authority. *I shall certainly not regard it as such.* The question of jurisdiction being before the court was decided by them authoritatively, but nothing beyond that question.”—Justice M’Lean, in *Dred Scott v. Sandford*. Howard XIX. 549.

† I know of no eminent lawyer in the country who has sustained the declarations of the Chief Justice in this case. It has been asserted that the former Attorney-General of the United States, Mr. Caleb Cushing, whose profound learning and legal sagacity all admit, upholds them; but he is re-

To the honor of the judiciary, two judges, and they the most learned upon the bench, were found faithful among the faithless. Mr. Justice McLean, after

ported to have said, on the 27th February, 1858, in the Legislature of Massachusetts: "There are parts of the opinion of the court, which in his opinion could not be sustained," and then to have commented on those parts "from which he dissented." (See *Legislative debates in Boston Daily Advertiser*, 1st March, 1858.) On a subsequent day, Mr. Cushing being present, the following able analysis of the case was made by a member of less experience but of equal legal acumen, Mr. John A. Andrew, and the correctness of this analysis has never, that I am aware, been disproved by Mr. Cushing. Mr. Andrew said:

"On the question of the possibility of citizenship to one of Dred Scott's color, extraction and origin, three justices, viz., Taney, Wayne and Daniel, held the negative. Nelson and Campbell passed over the plea by which the question was raised. Grier agreed with Nelson. Catron said the question was not open. McLean agreed with Catron, but thought the plea bad. Curtis agreed that the question was open, but attacked the plea, met its averments, and decided that a free-born colored person, native to any State, is a citizen thereof, by birth, and is therefore a citizen of the Union, and entitled to sue in the Federal Courts. But three judges of the Supreme Court have, as yet, judicially denied the capacity of citizenship to such as Dred Scott and family.

"Had a majority of the court directly sustained the plea in abatement, and denied the jurisdiction of the Circuit Court appealed from, then all else they could have said and done would have been done and said in a cause not theirs to try and not theirs to discuss. In the absence of such majority, one step more was to be taken. And the next step reveals an agreement of six of the Justices, on a point decisive of the cause, and putting an end to all the functions of the court.

"It is this. Scott was first carried to Rock Island, in the State of Illinois, where he remained about two years, before going with his master to Fort Snelling, in the Territory of Wisconsin. His claim to freedom was rested on the alleged effect of his translation from a slave State, and again into a free Territory. If, by his removal to Illinois, he became emancipated from his master, the subsequent continuance of his pilgrimage into the Louisiana purchase could not add to his freedom, nor alter the fact. If, by reason of any want or infirmity in the laws of Illinois, or of conformity on his part to their behests, Dred Scott remained a slave while he remained in that State, then — for the sake of learning the effect on him of his territorial residence beyond the Mississippi, and of his marriage and other proceedings there; and the effect of the sojournment and marriage of Harriet, in the same Territory, upon herself and her children — it might become needful to advance one other step into the investigation of the law: to inspect the Missouri Compromise, banishing slavery to the south of the line of 36° 30'. in the Louisiana purchase.

"But no exigency of the cause ever demanded or justified that advance: for six of the Justices, including the Chief Justice himself, decided that the *status* of the plaintiff, as free or slave, was dependent, not upon the laws of the State into which he had been, but of the State of Missouri, in which he was at the commencement of the suit. The Chief Justice asserted that 'it is now firmly settled by the decisions of the highest court in the State, that Scott and his family, on their return were not free, but were, by the laws of Missouri, the property of the defendant.' This was the burden of the opinion of Nelson, who declares 'the question is one solely depending upon the law of Missouri, and that the federal Court sitting in the State, and trying the case before us, was bound to follow it.' It received the emphatic endorsement of Wayne, whose general concurrence was with the Chief Justice. Grier concurred in set terms with Nelson on all 'the questions discussed by him.' Campbell says, 'The claim of the plaintiff to freedom depends upon the effect to be given to his absence from Missouri, in company with his master in Illinois and Minnesota, and this effect is to be ascertained by reference to the laws of Missouri.' Five of the Justices then (if no more of them) regarded the law of Missouri as decisive of the plaintiff's rights.

"The Chief Justice and Justices Wayne and Nelson and Grier plainly hold that, on this point, the Court of the United States were bound to follow the decision of the Court of Missouri, which had already passed upon the question. And if Campbell did not intend

showing the dangerous novelty of the conduct of the court; its violation of precedent, of written law, and of natural right; and after declaring that the mere "sayings" of the court would not be regarded by him as authority, expressed his regret that its declaration of a year before (in *Pease v. Peck*, 18 Howard) did not seem to be fresh in the minds of some of his brethren: "that it could not yield its convictions where, after a long course of consistent decisions, some new light suddenly springs up, or an excited public opinion has elicited new doctrines subversive of former safe precedent." \*

Mr. Justice Curtis declared that, without violating *duty*, he could not follow Mr. Taney in discussing matters not before the court; and, true to judicial principles, said, "he did not hold the opinion of that

to be bound by the Missouri Court, we are at a loss to understand what he does mean; since, asking 'what is the law of Missouri in such a case?' and, after citing *Scott v. Emerson* in the 15th of the Missouri reports and various authorities of several States, he concludes that 'questions of *status* are closely connected with questions arising out of the social and political organization of the State where they originate, and each sovereign power must determine them within its own territories.' He held conclusively and distinctly, and so also did Mr. Justice Catron, in common with all the judges, besides McLean and Curtis, — on their own investigation and reasoning, — that the law of Missouri (to be ascertained either by themselves, or by exploring the declared opinions of the Courts,) must rule the cause. And they all affirm that, *irrespective of the law of Illinois and of the territory*, Scott was a slave by the law of Missouri, on his return within the confines of its jurisdiction.

"If the law of Illinois could have had no possible effect to secure freedom to Scott, when again remitted to Missouri, it follows that neither could the laws of the territory have availed him. The majority of the court had no occasion, therefore, to follow them into the territory, in order to look into the condition of Harriet and the children; because Dred, as a slave, could have no wife nor child, known to the law or recognized by the Court. But if any such occasion had existed, the same answer, — of the effect of the Missouri law, — was sufficient to control the cause.

"Here, then, we have a man, found by three of the court, to be a person impossible to be a citizen, by reason of ancestral disabilities; by the same three, and four more of them, to have been a *slave*, by the law of his domicile at the inception of the suit. And yet, on the strength of observations and reflections indulged by a majority of these gentlemen, after their judicial functions had ceased for want of a competent plaintiff in the suit — for want of a man competent to the ownership of his own body, (on one side of their record,) — it is claimed by the President of the United States, that *slavery 'exists in Kansas under the Constitution of the United States,'* and that '*this point has been declared by the highest tribunal known to our laws.*'"

\* Howard XIX., 563.

court, or any court binding, when expressed on a question not legitimately before it." He did not fail, however, thoroughly to examine the question *before* the court, and showed that upon that, the opinion of Mr. Chief Justice Taney was as illegal as was the demagogical harangue of Mr. Taney on matters *not before* the court.\*

The Chief Justice had declared that, "every person, and every class and description of persons, who were at the time of the adoption of the Constitution recognized as citizens in the several States, became also citizens of this new political body."† He asserted, however, that the free descendants of imported Africans "were at that time (*viz.*, in 1787) considered as a subordinate and inferior class of beings," having no natural rights;‡ that "they had for more than a century before been regarded as beings . . . so far

\* In the trial of Woodfall, the printer of Junius, the aberrations of the Chief Justice—less flagrant by far than those in the Dred Scott case—were, it will be remembered, the object of discussion in the House of Lords, where Lord Chatham, on the 11th of December, 1770, said: "The court are so confined to the record that they cannot take notice of anything that does not appear on the face of it; in the legal phrase they cannot travel out of the record. The noble judge did travel out of the record; and I affirm that his *discourse* was irregular, extra-judicial, and unprecedented. His apparent motive for doing what he knew to be wrong, was that he might have an opportunity of *telling the public* extra-judicially" certain things, which Chatham proceeds to develop.—Woodfall's *Junius*, I., 29.

† Howard XIX., 406.

‡ "No rights or privileges but such as those who held the power and the government might grant them."—C. J. Taney, in Howard XIX., 405.

inferior that they had no rights which the white man was bound to respect ;” that “this was an axiom in morals as well as in politics ;” — from which premises he declared that they were not then citizens in the States (passing over in utter silence the statutes of several States prior to 1787, which made them citizens), and could not, therefore, be then, nor afterwards, citizens of the United States.†

Well did Mr. Justice Curtis overthrow this monstrous assertion, by pointing to the laws of five States, among them North Carolina, which, in 1787, gave to free colored men the full rights of citizens, enforcing this by the decision of Judge Gaston, of North Carolina. He also cited the Articles of Confederation of 1778, the fourth of which declared the “free inhabitants of each of these States entitled to all the privileges and immunities of free citizens in the several States ;” he showed by the discussions in Congress at the time, that the question was thoroughly

\* Howard XIX., 407.

† This paragraph is the careful condensation of twenty-four pages of casuistry in the official report of the opinion of the court.—*Ibid*, 403–427. The marginal summary of the official reporter stands thus: “When the Constitution was adopted, they [*i. e.*, freemen of the African race, whose ancestors were brought to this country and sold] were not regarded in any of the States as members of the community which constituted the State, and were not numbered among its ‘people or citizens’ ; consequently the special rights and immunities guaranteed to citizens do not apply to them. And, not being ‘citizens’ within the meaning of the Constitution, they are not entitled to sue in that character in a court of the United States.”—*Ibid*, 393.

understood; and pointed out the efforts of South Carolina to so amend this article as to restrict citizenship to whites, efforts in which only one of the thirteen States joined her.\* Mr. Justice Curtis might also have cited the statute of Virginia of 1783, which declares that all freemen are citizens, and which repeals the law of 1779, that limited citizenship to whites.

Carrying the opinion of the Chief Justice to its logical result, Mr. Justice Curtis showed that it implied the power to change our Republic to "an oligarchy, in whose hands would be concentrated the entire power of the Federal Government."

Against doctrines and conduct so destructive to our free institutions, it behoves us all, on this day, solemnly to protest. On this day again, it behoves us to remember, that an injury done to the humblest among us, whatever his color, whatever the country of his birth, is an injury done to us all.

All who believe in natural rights, and all who uphold existing things, are here called upon to act. In presence of usurpation, it becomes most especially the duty of all conservative men of the country to come forward.

I honor the conservative who stands the guardian of order, of existing rights, and of instituted liberty,

\* Howard XIX., 572-5.

and who gracefully yields at last to the progress of an advancing civilization :

“Who serves the right, and yields to *right* alone.”

But there are some who, calling themselves conservatives, conserve nothing, and who yield, not to the advances of civilization, but to the encroachments of barbarism ; whose whole conservatism is constant concession ; who tell us they are “as much opposed to barbarism as any one,” but they wouldn’t meet it on the field of politics, — “as much opposed to crime as any one,” but they wouldn’t hear a warning voice raised against it from the pulpit ; — their politics are too pure, their Sunday slumbers too precious, to be disturbed by any allusions to such exciting matters as the advances of crime. And so they go on, conceding everything, — not to civilization, but to barbarism, — not to liberty, but to liberticide — backing down before every presumptuous aggression — down — and down still — until they fall among the lost ones whom Dante has described.\* From them there is nothing to expect.

“Non ragionam di lor, ma guarda e passa.”

\* “ — Master,

What wretched souls are these in anguish drowned ? ”

To which he answered, “This award severe  
On those unhappy spirits is bestowed,

Of whom nor infamy nor good was known,  
Joined with that wicked crew which unto God  
Nor false nor faithful, served themselves alone.”

*Inferno* : Canto III., Parsons’s Trans.

We have, however, among us some real conservatives, and many intelligent and worthy men, who neglect the privileges, shall I not say the duties, of citizenship, and who, either from indifference or from a false fastidiousness, abstain from the polls. To these men I would, on this occasion, specially appeal. You complain that your vote is only that of one, and that however great your intelligence, however profound your learning, it may all be outweighed by the vote of the most simple. Here then is an opportunity for effective action; here is the occasion foreseen by the sagacious Story, when he placed the security against a trespass by the Supreme Court upon the known principles of law, in the intelligence, the integrity, the learning and the manliness of the country, which would keep watch upon its proceedings.

Here you may exercise your knowledge, and the influence which it may carry with it. Bring that knowledge and influence to bear upon the judges who have acquiesced in that deplorable prostitution of their office; aid them to see the error of their ways; point out to them the fountains of that law of which they are the ministers; draw them gently back to an appreciation of those elementary principles of jurisprudence, and of judicial action, which seem to have passed from their memories; furnish the Chief Justice with a copy of the decisions of North



Carolina and of the statutes of Virginia;\* persuade him to read the history of his country; tell them all, not in anger but in sorrow, of the disastrous consequences of their example; show to them that whatever factitious popularity may follow their conduct, the wise and the good are not with them, and that—though they may have a Senate at their heels ready to print and circulate their opinions through the country at the public expense—the voices of all the true and enlightened will condemn them in the present, and the Muse of History chronicle their names in the black catalogue of unworthy judges.

And if with all this you find them deaf to your remonstrances, unwilling to purify the ermine which, confided to them, has been draggled and soiled, if, unconscious of

“ ——— their foul disfigurement,  
They boast themselves more comely than before,”

you will at least have the satisfaction of knowing that you have done something to serve your country.

\* Particularly the 11th volume of “Hening’s Virginia Statutes,” where on p. 322 may be found the law of October, 1783, which repeals that of 1779, limiting citizenship to whites, and which enacts, “That all *free* persons, born within the territory of this Commonwealth shall be deemed *citizens* of this Commonwealth.” To this might be joined the opinion of the learned Judge Gaston, of North Carolina (4 Dev. and Bat. 20), cited by Justice Curtis (19 Howard, 573): “All free persons born within the State are born citizens of the State. It is a matter of universal notoriety, that under the Constitution of North Carolina, free persons, without regard to color, claimed and exercised the franchise.”

But this conduct of the court, though at first it may most shock the student of history, and the jurist, conversant with those principles which through the long struggle between arbitrary power and right have been evolved as the guaranties of justice between man and man, this usurpation on the part of the judiciary comes home to every one; to the rich as well as to the poor; to the powerful as well as to the weak; to the wise as well as to the simple; to the white as well as to the black.

To-day liberty is attacked; to-morrow it may be property. Let this be calmly acquiesced in, and no interest however respectable, no right however sacred, is safe. In opposition to the monstrous conduct of these judges all of us may cordially unite: in this all shades of party may blend; for no party, however strong it may appear, however great the selfish interests it may suppose to be flattered, no party can long bear up under the opprobrium of a measure which tends to undermine our institutions; which destroys the harmonious balance of the power delegated by the people to different branches of their government, and leads logically on to despotism or to revolution.

Let us, therefore, all join our efforts to restore the purity of the judiciary,—to aid it to recover its self-respect; and having done this, let us prove that our celebration of this day is no mere empty show, by

honoring the immortal truths of the Declaration, and by earnestly endeavoring in the future to act up to them. Let us rally around the Constitution of our country, which guarantees trial by jury to all, and which, in its own words, was “ordained to establish justice, and secure the blessings of liberty;” let us drive far away the corruption in power, and make JUSTICE and LIBERTY the persistent rule of action of our government.

Then shall we offer an acceptable tribute to the memory of those who founded our Republic; then shall our country present a cheering example to other nations struggling with oppression; then, true to itself, it shall be stationed,

“ Like a beneficent star for all to gaze at,  
So high and glowing, that kingdoms far and foreign,  
Shall by it read their destiny.”



DINNER AT FANEUIL HALL.



## THE DINNER.

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THE City Dinner took place, according to custom, in Faneuil Hall, which had been tastefully decorated for the occasion by Messrs. Lamprell and Marble. At the end of the hall, over the clock, the name of Washington was inscribed in gold letters on a black velvet ground. The names of the presidents of the United States surrounded the hall under the gallery. The platform was handsomely decorated with wreaths and bouquets.

The procession, numbering about fourteen hundred persons, entered the hall at two o'clock. The Brigade Band was stationed in the right-hand gallery, and played a march as the guests entered. After the company had become seated, a blessing was asked by Rev. R. H. NEALE, D. D. The substantial and excellent repast, prepared by Mr. J. B. Smith, the well-known caterer, was soon displaced from the tables.

About three o'clock, Hon. FREDERIC W. LINCOLN, jun., Mayor of the City, and presiding officer of the day, rose and spoke as follows:—

FELLOW-CITIZENS:—It is again our privilege to assemble in old Faneuil Hall, and to participate in another celebration of the Anniversary of American Independence.

Throughout the wide domain of this republic other congregations of the people are convened to-day to unite in the

general jubilee. But it is our peculiar happiness to assemble upon a spot, and to be surrounded by scenes sacred to some of the most glorious memories of the revolutionary era. This old hall is redolent with many of those associations of the past which have made the history of our nation famous.

The spirit of liberty, so boldly proclaimed here by our fathers, was advocated by them upon every battle field of the revolution. The ceremonies of to-day are an idle pageant if they do not enkindle a more fervent patriotism in our breasts, and inspire that spirit of self-sacrifice and devotion to country which shall preserve for our posterity those rights which our sires with so much labor bequeathed to us.

While the old world is now shaking with the tramp of armed men, and is renewing the conflict between arbitrary power and the rights of man, *we* are quietly reposing "under our own vine and fig tree, with none to molest or make us afraid."

Eighty-three years ago, thirteen feeble colonies scattered along the Atlantic coast threw out their united challenge to the world and proclaimed their independence as a *nation*. To-day we behold thirty-three confederate States, stretching from the Atlantic to the Pacific shores, consolidated into one people, and enjoying a degree of happiness which is the envy and admiration of the world.

The rapid expansion and growth of our country is not better illustrated than in the new star which is added upon this anniversary to the flag of the Republic — the ensign of the free.

It is but a few years since that an American poet spoke of the vast solitude of the West—

"Where rolls the Oregon, and hears no sound  
Save his own dashings."

To-day that Territory takes its place in the Union as one of the family of sovereign States, and by a happy coincidence



we have at our table the last survivor of the discoverers of its great river, the Columbia—a Boston boy and a Boston man, a North End mechanic, who, previous to that event, served his country during the revolution as one of the crew of the Tartar frigate, and is now, at the age of ninety, participating with us in all the joyous emotions which befit this occasion.

In the spirit in which John Adams prophesied that this day would be remembered, the people of Boston have ever held it in honor. "With solemn acts of devotion to God Almighty, with pomp and parade, with guns and bells, and bonfires and illuminations," they have through these many years, without a single exception, testified by the arrangements of their municipal authorities their appreciation of the great event, and their gratitude to the fathers for those blessings which they secured to us.

The leading transactions of the province of Massachusetts Bay and the old town of Boston immediately preceding the American Revolution, are an important part of the annals of that age, and are as familiar to this company as household words, but most of the details have never been seen upon the printed form. In the volumes of the Records of the Town at City Hall, the pages of that period are filled with the patriotic acts of the citizens in town meetings assembled, as well as the means adopted by the selectmen in connection with the committees of correspondence and public safety.

I have sometimes thought that it would not be an inappropriate act of the Municipal Government, if, under their authority, copious extracts from those records should be published. Such a work would not only be of marvellous interest to the student of history, but would show to the world that our fathers, not only in the popular assembly, under the excitement of impassioned orators, were alive to the cause, but that they took hold of the matter as a mu-

nicipal concern: and it would furnish the proofs of the unanimity of the people of this vicinity in its favor.

As an illustration of the spirit of those times, I will relate an incident which I found in looking over the records a few days since.

In 1774 General Gage requested an interview with the Selectmen upon business of importance. Upon waiting upon him, they were told that these Boston town meetings had caused so much trouble that Parliament had passed an act that no more meetings should be summoned without his permission. The Selectmen very coolly informed him that they did not intend to *call* any more at present, for there were two meetings still open by adjournment—one was to take place that month, and the other would be held in October. He replied, with much warmth, that he did not see but that under such arrangements the meetings might be kept open for ten years. They agreed with him in that opinion. The record says that the Governor was much displeased with the result of the interview, and predicted the most disastrous consequences from the course which the inhabitants of the town were pursuing. This was a specimen of revolutionary parliamentary practice not recorded in Jefferson's and Cushing's manuals.

But I will not, on this occasion, minister to a local pride. If the men of Massachusetts first felt the yoke of the oppressor, and were first aroused to action, they were aided by their immediate neighbors as well as by noble spirits from every colony, in their efforts to break their thralldom. The sentiment of Virginia in 1774 was "that all North America were party in the dispute growing out of the troubles in Boston, and if their sister colony of Massachusetts was enslaved, they could not themselves long remain free." It was under the leadership of the great Virginian, George Washington, that the enemy was driven from our soil; and although afterwards the seat of war was changed to other

sections, yet the whole country participated in the conflict, and all alike shared in its victory and renown.

Let us, then, citizens of Boston, comprehend our country, our whole country, in our filial regards; let us cling to that union of the States which makes us one people; let us reverence that Constitution under which we have grown up a power among the nations. Let us resolve that if all others should prove recreant to the principles of constitutional liberty, we will remain steadfast; and that if danger or peril awaits us, the heroism of the fathers shall be illustrated by the valor of their sons.

We to-day meet on the broad grounds of National Union—the narrow distinctions of parties and sects should be forgotten; our common watchword should be patriotism; our darling object, the welfare of the whole country. Other occasions may excite us to the consideration of local interests, and stimulate us to carry forward particular measures, but to-day let all strife and discord cease, and the spirit of conciliation and harmony grace the festivities of the hour.

To our distinguished guests, and to those friends from different parts of the country who are present, I bid a cordial welcome. The hospitalities we offer are not a mere form, but a pledge of friendship. Old Faneuil Hall, though under our immediate guardianship, belongs to the country. Every American has a joint proprietorship in its fame, and is heir to its glorious memories. I will close with proposing as a sentiment:

*The Day we Celebrate* — The most memorable in the annals of the past. May each returning anniversary be more gladly welcomed as it shall witness the Union of the States more closely cemented, and a great people bound together by mutual sympathy and good will.

At the conclusion of the mayor's remarks, which were much applauded, the Chief Marshal of the day,

Mr. CHARLES H. ALLEN, acting as Toast Master, proposed the following as the first regular sentiment :

*The President of the United States* — Whose right to rule is the sovereignty of a free people. May his administration of the government be so directed as to secure the happiness of all sections of the Union.

Music — “*Hail Columbia.*”

The second regular toast was read :

*The Commonwealth of Massachusetts* — With the Bible and her Constitution for her chart, and fidelity at her helm, and impelled onward by the life and energies of her moral and intelligent people, she has long held the lead in the race for civilization. May no side issues check her progress, no shallow councils despoil her of her well-earned laurels.

Hon. CHARLES A. PHELPS, President of the Senate, responded substantially as follows:—

Mr. Phelps said he regretted that there was no other gentleman connected with the State Government to respond; but he could not regret the accident which at the last moment had given him the pleasure of uniting in these festivities. It gives me great pleasure, said he, to unite with you in celebrating this anniversary of our National Independence. Where should this anniversary be celebrated, where honored, where remembered, unless it be in Massachusetts—in Boston—in old Faneuil Hall? Allusion has been made in the sentiment just read, to the hope that Massachusetts will be led off by no side issues. Sir, let us remember that the Revolution began in Massachusetts before the continental army was formed, and three months before the Declaration of Independence was proclaimed. In May, 1776, the town of Boston instructed their representatives that “if the Honorable the Continental Congress should, for the safety of the Colo-

nies, declare them independent of the Kingdom of Great Britain, the inhabitants of the town solemnly engage with their lives and fortunes to support them in the measure."

Let us never doubt that whatever parties may rise and fall, whatever questions may divide us, that Massachusetts will be true, now and in the future, to the great cause of human liberty.

And I must confess, sir, that I sympathize to a great extent with the views expressed by you regarding the manner of celebrating our national holiday. I believe, with old John Adams, that the day should be observed "with festivals, with bonfires and illuminations." It is a day when much should be "pardoned to the spirit of liberty"—when the American eagle may be allowed to spread his wings; and I am not without hope that on some Fourth-of-July morning I may awake amid the acclamations of fifty millions of freemen, and find that renowned bird of freedom with his talons firmly planted on the ridges of the Alleghanies—with one wing dipping in the rivers of Canada, and the other, if it may be peaceably and honorably, touching the diadem of the queen of the Antilles. Yes, sir, and dip his beak in the sunset waters of the Pacific.

I know it is the custom with some of our exquisite fellow-citizens to deery fourth of July patriotism, but I submit, I think this taste is bad, and the policy worse.

No tribute which their posterity can render to the patriot fathers of the Revolution can be beyond their merits. No,—not even though we

" Could write their names on every star that shines,  
Engrave their story on the living sky,  
To be forever read by every eye."

Sir, the Declaration of Independence which they proclaimed, and which we have assembled to celebrate, introduced a new era in the discussions of the political rights of man. In all

the contests in England between the people and kingly power, the question of freedom had been argued as a matter of precedent and authority. But the great charter of *our* liberties advanced a bolder doctrine, it proclaimed that "all men are created equal."

And the principles of the American Revolution are still in conflict. They are in conflict to-day, on the other side of the Atlantic. God prosper the right! That discussion will not end, the conflict will not end, until every king shall be left without a sceptre, and every sovereign without a throne.

For one, I cannot hope as much for the cause of liberal principles as many from the Emperor of France, in his present contest with Austria. I by no means forget the tyranny of Austria, but I do not also that this same Louis Napoleon, now promising freedom to Italy, is the same man who overthrew the French Republic in 1848. And I do not forget that it is just ten years ago to-day, July 4th, 1849, that, by the commands of this same Louis Napoleon, the French army entered Rome, and overthrew the Italian Republic.

But, sir, however the present contest may terminate, let us never doubt that the principles of government proclaimed by our fathers will live till the end of time.

It may cost much—nation after nation may rush to the banquet of death—the world may be drenched with blood—the earth tremble with the rush of armed men—the muse of history may embalm with pious tears the unavailing but heroic struggles of such a country as Poland, beneath the iron heel of Russian oppression—the patriot leader of Hungary may go forth for years to mourn in exile over the lost liberties of his father-land, but, sooner or later, the banner of liberty raised by the men of 1776 will yet make the tour of the world.

Our task is to show forth the light of a bright example. It is sometimes said that if our experiment of self-government shall fail, no other nation will renew the attempt. Flattering

as this may be to our self-love, I own I have a higher faith in the life and conquests of civil liberty.

If the temple of constitutional freedom here reared shall be overthrown, other nations in other and better days shall cause it to rise again, the wonder and admiration of mankind. But, sir, without further delay, I offer you

*The principles of the Declaration of Independence* — They herald the brotherhood of nations, and the political equality of man throughout the world.

Third regular toast :

*The Representative of the Fifth District of Massachusetts in Congress* — May the principles of the Revolution, here first promulgated, be his guide in the councils of the nation.

Hon. ANSON BURLINGAME, the member from the Fifth District, was introduced to respond, and was received with applause. He spoke as follows : —

MR. MAYOR: There could not be expressed for the representative of this district a kinder wish than that conveyed in the language of the sentiment just now read; and my hope is, that when he shall lay down the honors he now wears through the partiality of the people of this district, that then, if his name shall be recalled on some patriotic occasion, the language of the sentiment will run, not that the principles of the Revolution "may be," but that they "*have been*," his guide.

When you direct him to these, you point him to a definition of all the rights of man, and tell him that, as for these the fathers met the traditions and practices of tyranny, so he as your representative must hold nothing as dear, given to their defence and perpetuation.

It is true that here the principles of the Revolution were first promulgated, and it is wise here to recall them. I

need not state them; they have been recited,—I need not say how well, for you heard the young man, from the unbending text of our organic law; and though they have not all, as yet, been realized in practical government, the time will come when every “glittering generality” of that declaration shall live, not only upon the lips, but in the hearts of men. Believing this—believing that men are growing wiser and better, and freer with every passing hour, I have no repinings for the future of my country, but only fear that its quick coming light shall reveal our duties unperformed.

The struggle for the principles of the Revolution did not end with our fathers; it rages now, and as our fathers did their duty in their time, so let us do our duty in our time, and deriving our inspiration rather from their principles than their practices, press resolutely on toward that period when the government, in its practice, shall come nearer to its theories, and when every department of it shall be filled with the pure soul of the people.

I express these hopes, not as a partisan—no! This day let the bugles of party sound a truce—but as an American, proud of the principles of the revolution, and desirous of carrying them forward into living laws.

But, Sir, while we, in the presence of the historic shades of old Faneuil Hall, take these high purposes for our own country on our lips, let us not be unmindful of those who are struggling for the same principles in other lands.

And this brings me for a moment to consider the great topic of the time—the war in Europe. Without pausing to speak of its causes, let me say for myself, without circumlocution, that from the depths of my soul I sympathise with the Italians. When the orator of the day recalled the large aid we received from others during the revolution, I must confess that the selfishness of my patriotism was rebuked, and my feelings readily went along with



him to the portions of his address where he pointed out our obligations to respond. We may not fight side by side with those contending for their rights. We cannot, recollecting the advice of Washington, enter into "entangling alliances;" but there is nothing in what he said or in the circumstances in which we are placed to stay our sympathies from flowing like a generous river.

We can, as the orator pointed out, admonish the mother country. We can stretch forth the hand of the government to the people as they rise, and more than all and better than all, we can lead in their behalf the enlightened public sentiment of the world. Sir, I know there are difficulties; a cloud of doubt hangs over the motives of the leaders of the people, and especially over the name of Louis Napoleon.

You, sir, (Mr. Phelps,) have just indicated it; the German mind is suspicious, and the great heart of England is not yet soothed into sympathy with him; but, sir, looking to the present war, and his connection with it—however scornful we may be of his antecedents, and giving to his acts a fair and candid criticism, must we not say that he has entitled himself to the sympathies of the generous and the brave? Has he not thus far kept faith with the people? And is he not fighting for that great doctrine so dear to the American here—a doctrine born on board the Mayflower, and first expressed in the Declaration of our Independence, as I had supposed, but traced back by the orator of the day six hundred years, to the very soil where the war is now raging,—that doctrine which is this: that the people are the source of power, and that it must flow forth from them into a practical government according to the measure of their civilization.

With that great doctrine of freedom written on his banners, he confronts the tyrannic elements of Church and State; and, Sir, as long as he shall do that, I, for one, shall bid him God speed.

If he shall prove false, the cause of the people will not be lost; for over his perjured grave and blasted memory their legions will still seek their long lost rights. It is not for him nor for any man, nor for all the diplomatists together, to fix the boundary lines of this war; it is written in the decrees of Heaven, that when a people is risen and armed and animated by a burning desire to be free, no tyrant shall know on what river bank or in what mountain pass its great march shall be stayed.

Sir, not only do my sympathies go with the Italians, but, if possible, with a deeper tide toward the brave Hungarians.

Kossuth, that marvellous chieftain, whose mournful eloquence, reciting the story of his nation's wrongs, still lingers in our memories like the recollections of some grand old song, is, we learn by the news of this day, on the blue Mediterranean, seeking once more the father-land.

Sir, may I not send after him not my sympathies alone, but yours, and all the people's, from the Lakes to the Gulf, and breathe for him the hope that that great spirit of his which, nor exile nor war, nor the dungeon could break, may yet sway the destinies of the brave Hungarian land.

And now, fearing that I may have been lured by these high topics beyond the limit in time fixed for such occasions, after thanking you for the manner in which you received me, and have responded to what I have said, I will resume my seat.

#### Fourth regular toast:

*Washington* — The hero in war; in peace the temperer of party spirit. He made Jefferson his Secretary of State, and sought counsel from those who did not approve all his measures.

The song, "*Honor to Washington*," was here sung in an effective manner by Mr. C. R. ADAMS.

### Fifth regular toast:

*The Judiciary of the Commonwealth* — To their wisdom, learning and scrupulous fidelity we owe the preservation of our equal rights and constitutional liberty.

HON. GEO. D. WELLS, Justice of the Police Court, responded. He said:

MR. MAYOR AND GENTLEMEN: I do not know why I am honored in being asked to respond to the sentiment just given, unless it be that as I am the youngest of all in appointment, and perhaps in years, I can say what is their due of the judiciary, without fear that any praise I may utter can fall upon myself. They are not mere words when I say that I do so with great diffidence, in view of the place, the occasion, the audience, and associations in which I stand. So too, as I consider the sentiment itself, and reflect upon all of the past and present included in that term, "the judiciary," my mind runs backward, and I seem to see the forms and hear the voices of those great men whom we all reverence — whose names so stand out upon the pages we study — not alone the eloquent advocates, the subtle pleaders, the learned jurists, but *lawyers*, in the largest sense of the term, recognizing and enforcing to the uttermost those "unyielding abstractions" of truth, right, justice and equality of all men before the law, which the day we celebrate established, and which are the foundation of our civil and religious liberty and life — men "who knew and owned the higher ends of law."

It is not easy for me, standing only on the threshold of the tabernacle wherein these dwell, to speak for them. I must put the shoes from off my feet if I would enter in.

For with us the judiciary seems to include what we most respect, in character, acquirements, and usefulness. Look through our whole State history, and where are our unjust or corrupt judges? In all time there have been many rulers

tyrannical and infamous, but how few judges of whom this can be said. When we do find these, their names stand in added blackness. They did, it may be, only the bidding of their masters; but as the function of the judge is higher and holier than that of president or king, so the guilt of these last is overshadowed by that of him who prostitutes this office to corrupt or selfish ends. So universally has this been the rule with us, that we receive the decrees of our judges almost without thought of criticism or question; and when one comes so manifestly wrong that we must reject it — that we cannot but say it is some strange error, or a wilful prostitution of the office — we can hardly credit our senses; “the earth seems to stand at gaze.” We say, these men cannot err; it is a mistake, an impossibility; we gather about the decision

“As men aghast round some cursed fount,  
That should gush water, and spouts blood.”

So strongly was this felt in our earlier history, that the great men who framed our government took extreme care to place our judges above all restraint or control, and put the Supreme Court under the especial charge of the Constitution. Even more — as showing their confidence, while in all else our government is one of checks and balances, no part without restraint, to the judiciary all is given; they are an absolute tyranny if they will. To execute their process, the sheriffs, with their posse, absorb the whole power of the State. Our Supreme Court is above our Constitution and laws, for it interprets both at its will. From its decrees there is no appeal, except to revolution or its equivalent. Our only reliance — and it has always been and is, in this Commonwealth, a sure one — is in the learning, ability, and above all, in the integrity of purpose of our judges. We regard that court with a just pride. So of our other courts, changing as they have and must, as the increasing need and want of our increasing and changing business and population demand.

The memory of all which are gone is fresh and green. The names upon their rolls are everywhere known and honored. In all changes, *the judiciary* has been the same. It has been, as it is to-day, an organization of upright, learned, and earnest men. Their duties have been performed fearlessly, ably, and well. In one thing their duties have been rendered much easier. The humanity of our legislators, and the wise, generous, and noble policy of your rulers of the city of Boston, and your predecessors, has relieved the judges of your criminal court from their hardest and cruelest duty. For while I hold, in its strictest sense, that the object of criminal law is not the reformation or assistance of the criminal, but the security of the state — that the judge who loses sight of the latter in his desire for the former, does what he has no right to do, in sacrificing the state, whose servant he is, to the individual, whose servant he is not — yet it must be very hard to feel that in performing this duty, you are punishing the soul as well as the body; and that the poor wretch, whom vicious propensities or early neglect have driven into crime, will leave your sentence more wicked and hardened than when it began. Thanks to the policy of your State and city, with its admirably graded institutions, from that “model” at South Boston to the reform school upon the island, your judges need no longer send the unfortunate victim of appetite to herd indiscriminately with persons hardened in crime, or give to the poor child his first and only education at the hands of thieves and prostitutes. Earlier judges were obliged to this as a duty. It is easier to feel, as we can now, that in punishing crime, and terrifying from evil doing, we are at the same time doing what is best for the criminal himself, and that justice and mercy can walk hand in hand.

Begging pardon, Mr. Mayor, for having detained you so long, I take my seat.

## Sixth regular sentiment :

*The Cotton States* — Producers of the staple we consume, and consumers of the manufactures we produce. May the reciprocal tie of the Union, which springs from our mutually advantageous commerce, be cemented by continued warm and generous social relations.

GEN. PALFREY, of New Orleans, responded as follows :

MR. PRESIDENT:—I must confess I am taken entirely by surprise in being called upon to respond to the toast. Although I am a military man, and contrary as I know it is to military rules, I assure you I am taken by surprise, and I feel that I cannot do justice to my feelings and to the sentiment under the circumstances. But, Mr. President, I am sure I speak the sentiments of my fellow-citizens when I say every one of them cannot fail to reciprocate, without a single exception, every word contained in the toast just read. I assure you, Mr. President, I am very happy in having an opportunity to join you in the observances of the day. It is peculiarly interesting to me, from the fact that I am a native of the town of Boston. I was born within a few squares of this building, and in the year 1810 I removed to New Orleans. I say the present occasion is peculiarly interesting to me, and I am sure I have the right to call you my fellow-citizens, although I have the pleasure of a personal acquaintance with but very few here present. One of the gentlemen who addressed you, declared that he was willing that the bugle should sound a truce to political warfare, and I must say I join with him heart and soul in that sentiment. There is one thing, however, to which I should like to allude more particularly, had I not been called on so unexpectedly, and that is, that I think it is peculiarly a hard case for a man who has been a citizen of the South for fifty years, who was born in Boston, is an American citizen, and enjoys the protection of the stars and stripes, to return to his native

city and hear such sentiments promulgated as I have been obliged to listen to in the Music Hall to-day. Now, perhaps, I stand alone in the expression of such an opinion, but I felt it my duty to say a word concerning the matter. I have my own opinions and you have yours. Bunker Hill is ours as well as yours, and King's Mountain yours as well as ours. Gentlemen, I hope you will excuse me, for what I say is in sorrow and not in anger. In conclusion, I will give you—

*Boston and New Orleans*—Two of the most important cities of the United States—linked together by the strongest tie of commercial interest—may they always be ready, as in times past, to defend the principles of our glorious and happy Union.

### Seventh regular sentiment :

*The Orator of the Day*—His eloquent address adds fresh laurels to the name of Sumner, already twice distinguished by a father and brother on the roll of the orators of Boston.

GEORGE SUMNER, Esq., the orator of the day, responded as follows :

I am deeply grateful, Mr. Mayor and Fellow-Citizens, for the manner in which this sentiment has been received, as it shows that the memory of my honored father, and the name of my absent brother, are fresh in your minds. The allusion to my father gratifies not alone my filial feelings, but those which I have as a citizen of Boston, glad to see honor rendered to every example of integrity, justice and patriotism. You have spoken of him as one of the orators of Boston. May I be permitted to recall an occasion (not the fourth of July) on which, as it seems to me, he spoke also for Boston and with a certain eloquence.

In 1812, the dominant interest of our city was strongly opposed to a war with England. At that time, a call was made for a national loan, and subscription books were sent to Boston. These were received in no complimentary man-

ner. In that street which witnessed the first conflict between British troops and American citizens, it was stated that no money would be given in Boston—and, moreover, that any one who subscribed to the loan should be stigmatized. These menaces had their effect. Days rolled on, no money came, and the jeers of the street were redoubled. At that moment, my father, then a young lawyer, sold some property, got together what money he could command, paid it to the agent of the national treasury, and put his name, solitary and alone, upon the stigmatized list.

Two days after, the impulsive, warm-hearted, civic hero of our Revolution, in whom the spirit of party never rose superior to patriotism, the venerable John Adams, came from Quincy and put his name also on the list.

The subscription of my father was not large—it was the young lawyer's mite—but in standing forward when the national honor had been attacked, and in doing a patriotic act, in presence of menace, there was a civic courage, which I may, perhaps, be pardoned for remembering with a certain satisfaction. On that occasion, it seems to me that he was the real orator of Boston, speaking by action, not perhaps the dominant or the fashionable sentiment of the moment, but the sober second-thought of this great city; which is always true to the national honor, and true to the principles of the founders of the Republic.

I shall not follow the gentleman who has just preceded me in any discussion. This is Faneuil Hall, and this is the City of Boston. I congratulate him on being where every man is free to express his opinions. In so much of what I have had the honor to say this day in another place, as regards recent events in our own country, I am supported by Jefferson, by Hamilton, by Story, and by the great jurist of Louisiana, Edward Livingston. With them I am content to stand or fall.

In every part of Europe, but more especially in France, I have remarked, Mr. Mayor, the honor paid to our native



city. Landing at Boulogne, I found myself passing through the *rue de Boston*; and in two other cities of France found the dear old name upon street corners. This honor is thus rendered on account of the example given by Boston in her sacrifices for liberty; and because she has always recognized the necessity of basing her liberty firmly upon law; and as the guaranty of this, of keeping the legislative, executive and judicial functions separated from each other.

Permit me, sir, to propose as a sentiment:

*The City of Boston* — The first to make sacrifices for the liberties of the whole country; the firmest in maintaining the UNION formed to secure the blessings of LIBERTY to all.

Eighth regular sentiment:

*The New England Clergy* — Who instructed their people that resistance to tyranny was obedience to God.

Rev. R. H. NEALE, D.D., chaplain of the day, responded. He spoke substantially as follows:

In regard to the New England clergy, he was happy to say, that they went for the right — for the great principles of civil and religious liberty — for the constitution and the Union, God and their native land.

Turning to the picture of Webster replying to Hayne, which is suspended behind the rostrum, the reverend gentleman remarked that he spent his youthful days in Washington, and witnessed the scene here portrayed, and heard that address, in which was first uttered that great sentiment, "Liberty and Union, now and forever, one and inseparable." Although an admirable picture, yet it fails to convey a full conception of that august and memorable occasion. The mien of Calhoun, and Clay, and Hayne, the coolness of the great orator, the fire of his eye, the breathless attention and

eager interest of the crowd of listeners, and other peculiarities which contributed to give that event a thrilling interest to every participator, could not be written—could not be painted.

An amusing incident happened to Mr. Webster just after the great speech, which he would relate. For the purpose of a little relaxation, Mr. Webster went down into Virginia with some friends. They called at a farm house and asked for some milk and water to drink. The good woman of the house went to get some. Her husband, who had been intently reading a newspaper containing Mr. Webster's speech, asked Mr. W., "Do you know Webster?" "Yes, I believe I do," was the reply. "Well, how does he look?" "Rather savage," said Mr. Webster; "they say he looks like me." "Well, are you Webster?" "Yes, they say I am, and I suppose it is so." By this time the wife came in with the milk and water. "Carry that back, carry that back!" said the husband; "this is Daniel Webster. Make a pitcher of *hail-storm*; nothing but *hail-storm* will do for Webster."

The speaker said he did not wonder at the diversity of opinion which exists in regard to Powers' statue of Webster. No likeness would come up to our ideas of him. The speaker had seen many pictures of him—and some very fine ones—but not one had satisfied him. The admirers of Louis XIV.,—the Grand Monarque—conceived the most exalted ideas of him; and, after his decease, they were not satisfied with any portrait of him. They remembered him as a man of majestic proportions and kindly presence. To settle the matter, his body was measured, and found to be but five feet ten inches high. So of our estimate of those we admire. There is a presence, a bearing, a look about them which greatly elevates them in our conceptions. He was glad that Mr. Powers' statue was to be placed in the State House Grounds. The statue will not be judged by posterity by the cut of the coat or the pantaloons. It will

form its own idea of Webster from his intellect. Mind is the standard of the man.

### Ninth regular sentiment :

*The Signers of the Declaration of Independence* — Who fearlessly “pledged their lives, their fortunes and their sacred honor” to secure to grateful millions the blessing of Freedom.

Mr. GEORGE H. CUMINGS responded as follows :

I am very well aware, sir, that the honor of responding to the sentiment just given is owing wholly to the accidental position which I have held to-day, by the courtesy of your committee. You have alluded, sir, to that band of heroes whose signatures are familiar to every intelligent American.

Of course, from a person of my age and inexperience, no eulogy can be expected upon those illustrious men who, by one act, linked themselves to a glorious immortality.

Perhaps there was never any body of men to whom Collins' beautiful ode is more applicable—

“ By fairy hands their knell is rung ;  
By forms unseen their dirge is sung ;  
There honor comes, a pilgrim gray,  
To bless the turf that wraps their clay ;  
And Freedom shall awhile repair  
To dwell a weeping hermit there ! ”

Begging, therefore, to be excused from any direct response to the sentiment, I will ask your permission to mention one historical fact in relation to the Declaration of Independence, which may, perhaps, interest some present. Among the incidents connected with the promulgation of the Declaration is the circumstance that its first public reader in Massachusetts was the celebrated Isaiah Thomas, a Boston boy, Mr. Mayor. On the 14th of July, 1776, the express-rider carrying the Declaration from Philadelphia to Boston, stopped at

Worcester, and waited until Thomas read the sacred instrument, from the meeting-house steps, to the listening citizens, who received it with every demonstration of joy and gladness. The year before he had earned the proud distinction of being one of the twelve proscribed by the British government. During the subsequent years of the war, this patriot printer and philanthropist continued one of the most active whigs of the province; and the closing years of his long and honorable life were devoted to the collection of an immense mass of documents relating to our colonial and revolutionary history, and to the founding of that truly national institution, the American Antiquarian Society. Without trespassing further upon your time, I will propose, as a sequel to the last regular sentiment:

*The First Reader of the Declaration of Independence in the Old Bay State* — An antiquarian, philanthropist, patriot, he has won a worthy place in the history of our country; may the youth of the present age emulate the manly independence of his character, and strive, with the same purity of purpose, to keep undimmed the reputation of our ancient commonwealth.

#### Tenth regular sentiment:

*The Armies of the Revolution* — No perils dismayed, no hardships disheartened the heroes of liberty — they confided in the Lord of Hosts, who aided them to triumph.

No response was made, and the next sentiment was read.

#### Eleventh regular toast:

*Our Navy of Both Centuries* — The bold exploits of Manly, Paul Jones and Commodore Truxton, were a fitting prelude to the glorious achievements of Preble and Decatur, of Perry and Stewart, Bainbridge and Hull.

Hon. THOMAS RUSSELL, Justice of the Superior Court, responded substantially as follows :

MR. MAYOR:—I have little right to respond to such a sentiment. I have cruised sometimes in Boston Bay, but have never performed any greater naval exploit than the capture of a poor ballast sloop, poaching on Gallop's Island. But to-day we are allowed to boast of our ancestors; and I can tell of one, who in '76 commanded a ship, charged with revolutionary thunders; and when in a contest with a superior force, two of his men deserted their guns, he killed them with his own sword, saying by his acts, what we should all echo in words, "Better a dead corpse than a living traitor."

We have hardly done full justice to the naval heroes of the War of Independence, whose courage and skill in a hundred fights did so much to tear the red cross from the shores of the American continent,

" And set the stars of glory there."

To the gallant exploits of our navy in the war of 1812, we have done full justice. The world was startled at the thunders which shook the naval supremacy of Great Britain; and we shall never tire of reading and recounting those brilliant victories, which were needed to complete the independence of America, and which breathed into her the life of a new national existence.

We may well be proud that while Boston and Massachusetts disliked and opposed the war of 1812, they did so much to swell its glories by the noble hearts that crowded the decks of our frigates, and won victory for our country. Our fathers knew that war to be just. They didn't all believe it necessary or expedient. But they made it glorious; and even now we reap the fruits of their valor.

The insulting Right of Search has been given up; and our flag protects the sailor who floats under its shadow. It is the often-repeated boast of England that "the poor man's house is his castle," which the monarch of England dare not enter. Our sailor need not retire to such a castle. The frail bunting that waves over his head protects him from the touch of a hostile hand. One triumph remains to be achieved — to be gained, I trust, without burning a pound of powder, or spilling one drop of blood. The recognition of the right of every man to choose his own country; the settled international law, that when a man, from whatever nation he comes, has been clothed with the panoply of American citizenship, he shall henceforth be forever free from all claims of allegiance to any other power.

And now I am reminded that we need not go back to 1775, nor even to 1812, to find an American naval victory. I know you will agree with me that the conduct of the gallant Captain Ingraham, when he gave the protection of the American flag to an exile in a far off land, and taught the despots of Europe that the mere shadow of American citizenship was armor of proof to the poorest wanderer, was as truly a moral victory for America as if he had taken a score of hostile ships, or added ten thousand miles of fertile territory to her expanding borders. And if Captain Ingraham had been attacked by an overwhelming force, and had gone down, as he would have gone down, beneath the blue waters of the Levant, with his flag still flying, unconquered even in death, who wouldn't have hailed the loss of his vessel as an American victory? who wouldn't have been willing to inscribe his name with the names of Perry and Bainbridge and Decatur?

I honor Great Britain for her many national virtues. We can afford to be generous to her on the fourth of July; and it is no treason to "Hail Columbia" that our hearts warm a little to "God save the Queen." And, most of all, I honor

England for the protection which she affords to the poorest of her subjects in the most distant lands. In whatever seas her mariners may wander, they can always feel that her mighty arm is ready to be laid bare in their defence.

Let us imitate her; let us surpass her in this and in every noble quality. What she does for native subjects, let us do for adopted children. And may the day soon come,—the day will soon come, when our country shall say to every citizen of the United States, as Captain Ingraham said to Martin Kozsta, “Do you ask protection as an American citizen? You shall have it.”

#### Twelfth regular sentiment :

*The Soldiers of Massachusetts*—Ever ready at the call of their country, they cheerfully laid down their lives to secure its independence ; and should its honor or safety again demand their services, they will prove by their endurance, discipline, and valor, that they are not degenerate from the example of their fathers.

Col. COWDIN was to respond to this toast, but being obliged to withdraw, he left a sentiment, which was read, as follows :

*The City of Boston*—Distinguished for her liberality in her annual appropriation for the proper celebration of our National Independence. May her citizens ever sustain the principles promulgated by the patriots of '76.

#### Thirteenth regular sentiment :

*The Freedom of the seas*—Never to be surrendered while our national flag floats from the mast-head.

A song, written by Dr. H. G. CLARK, (music composed by JULIUS EICHBERG,) was sung by Mr. GEORGE WRIGHT, Jr., as follows, and was received with great favor :

Run up our flag on every mast!  
 Fling out to every breeze!  
 For proud old England yields at last  
 The freedom of the seas!  
 Run up our flag, &c.

Upon its folds of heavenly blue  
 Sprinkle the stars of night!  
 And pour the glorious sunlight through  
 Its bars of red and white.  
 Upon its folds, &c.

Our Eagle greets the rising sun!  
 And on the distant sea,  
 Telling of peaceful victory won,  
 Our flag is floating free!  
 Our Eagle greets, &c.

"NO RIGHT OF SEARCH!" forevermore  
 Unchallenged on the sea,  
 Our ships shall sail from shore to shore,  
 Whate'er their errand be!  
 No right of search, &c.

Run up our flag on every mast!  
 Fling out to every breeze!  
 For proud old England yields at last  
 The freedom of the seas!  
 Run up our flag, &c.

#### Fourteenth regular sentiment :

*Spain* — Ever to be remembered as the discoverer of the American Continent. We welcome her representative to our national festival.

The Spanish Consul, LOUIS LOPEZ DE ARZAY Y NOEL, replied briefly. He knew of no government, with the exception, perhaps, of England, which received more commendation from Spain than that of the United States. He hoped that the present peaceful relations between the two countries would forever remain unbroken.

His Honor the MAYOR, said there was a venerable gentleman present, Mr. SAMUEL YENDELL,\* an old de-

\* The following extracts are made from an article from the pen of Hon. J. T. BUCKINGHAM, published in the Saturday Evening Gazette, giving some



fender of our national rights on the ocean, for whom he would ask the company to give three hearty cheers, which were given with much spirit.

account of Mr. Yendell's life, and exhibiting a reason for the interest which is manifested in his welfare :

"SAMUEL YENDELL was born in Boston, March 15, 1769. His father was also a native of Boston, a mechanic, and probably not in very prosperous circumstances, for the son was obliged to provide for himself at a very early age. At the age of thirteen, that is, in 1782, he was one of the crew of the frigate *Tartar*, which was then cruising in the Atlantic Ocean, and made several prizes of British merchant vessels. After serving six months on board the *Tartar*, he became an apprentice to a boat-builder, with whom he served till twenty-one. In 1791, he sailed with Capt. Robert Gray, in the capacity of ship-carpenter on board the ship *Columbia*. It was during this voyage that Capt. Gray discovered, and with his ship and crew entered, the "*Oregon*," or "*Great River of the West*," and gave to it the name of his ship. This incident, which has rendered the ship and its commander memorable in our commercial and political history, happened on the 13th of May, 1792. Mr. Yendell has preserved a number of pictures, taken by one of his shipmates, of the natural scenery of the islands which they visited in the course of their voyage—all which he is pleased to show to the friends who visit him, and gives a very intelligent description of rencontres with the natives of those barbarous regions. He was one of the workmen employed in building and launching the frigate *Constitution*, in 1797 and 1798. He is the only survivor of the crew of the *Columbia*, and it is believed that, of all the mechanics employed on the *Constitution*, but very few remain to tell us of the fact, and entertain their hearers with details of their labors. . . . .

"From the beginning of his busy life, Mr. Yendell has been remarked for industry, honesty, and other virtues, not the least of which is temperance. He was never known to drink intoxicating liquor of any kind, nor to provide it for the workmen he employed. . . . .

"This venerable old man, now past the age of ninety, receives a small pension from the government, in consideration of his patriotic youthful service on board the *Tartar*. His physical faculties seem to have suffered no decay but such as is inevitable, and are in as perfect a condition as a healthy and cheerful temperament can promise to a survivor of three generations. His memory, too, is capacious and retentive. He is believed to be the oldest member of the Massachusetts Charitable Mechanic Association, though not the senior in membership, which dates from 1816. He has always been punctual in his attendance on the meetings, and fulfilled all the duties required of him as a member. He has never sought or desired popularity, but he has attained

After the proposal of one or two volunteer sentiments, and rounds of cheers for the Mayor and the Toast-Master, the company separated.

all he wished — the character of a worthy and honest man. He takes pleasure in seeing and conversing with friends; he salutes them with cordiality, and entertains them with reminiscences, without the infliction of tedious garrulity. He is truly an interesting relic of the past.”

CORRESPONDENCE.



## CORRESPONDENCE.

IN reply to the invitations sent to persons distinguished in political, military and literary walks of life, numerous letters of regret on account of inability to be present, were received. The following are some of them:—

WASHINGTON, *June 28, 1859.*

GENTLEMEN :—I am much obliged to you for the honor you have done me, by inviting me to attend the celebration of the approaching anniversary of American Independence by service in the Music Hall, and by a dinner at Faneuil Hall, and to express my regret that the pressure of official business will prevent me from being present upon that interesting occasion.

I am, gentlemen, with great respect,

Your obedient servant,

LEW. CASS.

FRED. W. LINCOLN, JR., Mayor, and Committee, &c.,

GENTLEMEN :—I sincerely thank you for your kindness in sending me an invitation to be present at the services and the dinner, on the birth-day of our Independence.

The state of my health prevents me from accepting your invitation, but it does not prevent me from expressing my heartfelt thankfulness to a kind Providence that this glorious day returns upon us,

finding our beloved city in the enjoyment of so good a government, and in so much health, prosperity and happiness; nor from breathing the fervent aspiration — “*Esto perpetua!*”

With much respect and esteem,

a native, and for fifty years a minister of Boston,

CHAS. LOWELL.

ELMWOOD, *July 1*, 1859.

SUMMER STREET, *June 28*, 1859.

GENTLEMEN:—I am greatly obliged to you for the honor of an invitation to the celebration of the approaching anniversary of the National Independence, by the City Council. Should the state of my family permit, it will afford me great pleasure to be present on the ever interesting and important occasion.

I remain, gentlemen,

With the best wishes for a prosperous celebration,

Your fellow-citizen and friend,

EDWARD EVERETT.

His Honor the MAYOR, and Committee, &c.

NATICK, *July 2*, 1859.

GENTS: It will not be in my power, owing to an engagement at Lawrence, to accept your kind invitation to unite with the City Authorities of Boston in the celebration of the coming anniversary of National Independence. I assure you that it would afford me great pleasure to be with you, and I thank you most sincerely for your kind invitation.

Yours, truly,

HENRY WILSON.

To Hon. F. W. LINCOLN, JR.,

and other gentlemen of the Committee.

ANTIOCH COLLEGE, YELLOW SPRINGS, }  
*July 8*, 1859. }

Hon. FREDERICK W. LINCOLN, JR., Mayor, &c. &c.

DEAR SIR:—I have this day received your kind invitation to be present at your city celebration of the Fourth.

It is a little too late for acceptance or for a toast, but it is not too late to express my thanks for your kind remembrance of me, nor my deep interest in the honor and renown of the City of Boston — more dear to me now than ever, since I see its excellencies by the light of contrast.

I remain, faithfully and truly yours,  
HORACE MANN.

SPRINGFIELD, *June 29, 1859.*

SIR:—It would give me great satisfaction to make my respects to the authorities of my native city, by accepting their invitation for the 4th of July, but public duties here forbid it.

With high respect,  
Your obedient servant,  
W. B. CALHOUN.

HIS HONOR MAYOR LINCOLN.

NEW BEDFORD, *June 23, 1859.*

GENTLEMEN:—I have received your note of invitation to attend your celebration of 4th July at Music Hall, and to unite with you at dinner at Faneuil Hall; and if I had not already made private engagements for the day, I would gladly accept. But I am compelled to decline your kind invitation, and remain, very sincerely,

Your friend and servant,  
THOMAS D. ELIOT.

HIS HONOR FREDERIC W. LINCOLN, JR., &c., &c.

NEW BEDFORD, *June 29, 1859.*

GENTLEMEN:—Your polite invitation to be present at the celebration of the approaching anniversary of American Independence was duly received.

As that day is also to be commemorated by our citizens by a public celebration, I am necessarily obliged to decline its acceptance.

Very respectfully, gentlemen,  
Your obedient servant,  
WILLARD NYE.

HON. FREDERICK W. LINCOLN, JR.,  
and the Committee of Arrangements, &c.





EVENTS OF THE CELEBRATION.



## EVENTS OF THE CELEBRATION.

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THE initiatory steps for a celebration of the anniversary of American Independence were taken in the month of March, and a Joint Special Committee was appointed to make suitable arrangements, consisting of Aldermen Willis, Amory, Atkins, Allen, Crane, Holbrook and Bailey, with Councilmen Doherty, Robbins, W. C. Burgess, Faxon, Slade, Drake, Frederick, Page, Carpenter, Cowdin, Paul and James. By invitation of this Committee His Honor the Mayor coöperated with them in the active discharge of their duties. The labor of preparation was divided among sixteen sub-committees, whose doings were ratified by the full Committee, and thus a complete programme was filled up, and caused to be published to the citizens at large.

### DECORATIONS.

Faneuil Hall, City Hall, and the entrances to the Common were tastefully decorated by Messrs. Lamprell & Marble.

A magnificent arch of flags decorated the main entrance to Faneuil Hall. In the main hall, festoons of various colored bunting descended from a firmament of stars on a blue field in the centre of the ceiling, to the several pillars. Flags of all nations were gathered in tasteful festoons at the windows, interspersed with shields, and on each pillar were appropriately draped flags of different

nations, American flags appearing in the centre. Surmounting all of these, and projecting from the cornice, were small American flags on staffs with gilt ornaments, while below, red, white and blue bunting extended entirely around the hall, passing above and below the picture of Webster replying to Hayne. Around the galleries were panels of blue and gold, bearing the names of all the Presidents of the United States, with the exception of that of WASHINGTON, which was on an arch of velvet, extending either side of and spanning the clock on the front of the east gallery, and with which, on the same ground, was the motto, "Independence declared July 4, 1776." The large eagle over the clock was surrounded with a glory of flags, and the doors to the galleries were appropriately draped. On the outside of the hall was a large flag extending from the centre, and numerous smaller ones from windows, while on another line of flags was the motto, "This day is sacred to the liberty and rights of mankind." And on the reverse was "July 4, 1776." The platform in the hall was beautifully decorated with flowers.

The City Hall was gaily decorated outwardly. Four flagstaffs were erected on the roof; a large American flag floated from the cupola, on the centre apex staff the American Jack, on each wing smaller American flags, and from the staff on the centre to the base of each staff on the wings were extended lines of smaller flags. From each window, front and rear, staffs projected bearing flags of all nations, and from the centre apex in front were two large American flags, draped and surmounted by a glory of smaller flags, in the centre of which was a large figure of the City Seal.

A large Roman arch spanned the Park street entrance to the Common. This arch was bright with gold and variegated colors, and on the Park street front, bore in letters of gold the motto, "What the Fathers gained may the Sons preserve." On the reverse was "July 4th, 1776." On

the keystone to the arch was a medallion head of WASHINGTON, and on the pillars, representations of ancient war implements, and a large American shield. Surmounting all, on the front, was a representation of the American Eagle, supported on one side by an Indian with his Pipe of Peace, and on the other by the Goddess of Liberty.

Around the large music stand on the Common were seven flagstuffs, and as the several National Airs were performed by the united bands, the American, English, French, Sardinian, Russian, Austrian and German flags were hoisted, and remained fluttering in the breeze throughout the day.

From the Court House across Court street was a line of flags, and the motto, "If we have but one day to live, let that day be devoted to our country." On the reverse, "The Freedom and Independence of America."

Across the junction of Court, Hanover and Howard streets floated numerous flags, and the motto, "Our Fathers of '76." On the reverse, "They nobly dared to be free."

A line of flags extended from Tremont Temple across to the Tremont House, and in the centre was the motto, "Peace, Liberty and Independence — Our glorious inheritance." On the reverse, "July 4, 1859."

Across Union street, from Campbell's to Chipman's store, was a display of flags, and the motto, "September 17, 1630. It is ordered that Trimountain shall be called Boston." On the reverse, "July 4, 1776. A day never to be forgotten in the annals of America."

The front of the Museum was decorated with a great variety of flags.

The Howard Athenæum was gaily decorated with flags of different nations, and in the centre in front was a very large painting of the Battle of Buena Vista.

Flags floated from the cupola of the old State House, also from the State House on Beacon Hill, and other prominent points in the city.

The shipping in the harbor was tastefully and abundantly decorated with flags and streamers.

#### MORNING CONCERT.

With the agreeable experience of two years to sustain the measure, a "Grand Military Concert" was given upon the Common at 8 A. M. by a body of sixty musicians from Gilmore's Band, the Germania Band, Hall's Boston Brass Band, and the Brigade Band, the entire orchestra lead by Mr. B. A. Burditt. The music stand, instead of being on the Parade Ground as before, was erected at a point east of the two hills, and a more admirable position could hardly have been selected. The crowd in all directions was immense, some eight or ten thousand people at least assembling to hear the music, and frequent hearty applause attested the acceptability of the entertainment. The programme was as follows:—

1. Yankee Doodle, in three different movements.
2. Marseilles Hymn.
3. Russian National Hymn.
4. Honor to Washington.
5. German National Hymn.
6. God Save the Queen, (accompanied by the Guns of the Artillery.)
7. Star Spangled Banner.
8. Sardinian National Hymn.
9. Austrian National Hymn.
10. Hail Columbia, (accompanied by the Guns of the Light Artillery).
11. Finale—Old Hundred.

The Light Artillery was under the command of Capt. Nims. The guns were fired by the three Lieutenants, and to them is the credit due for the precision exhibited in the salvos that so heightened the effect of the music as to excite

the warmest enthusiasm of the vast assemblage. The concert closed at 9 o'clock.

#### MILITARY REVIEW.

As soon as the morning concert ended, the Second Regiment of Infantry, Col. Robert Cowdin, which was engaged to escort the city procession, marched upon the Common to be reviewed by His Honor the Mayor. Six companies were represented, two of them, the Roxbury City Guard and the Union Guard, appearing in the newly adopted gray uniform of the regiment. The Independent Fusileers and the Washington Light Guard wore their company uniforms, and the Boston Phalanx and Pulaski Guards wore the blue regimental uniform. The six companies turned out with about 240 men, and their appearance was very creditable.

#### CHILDREN'S CELEBRATION.

The Children's Celebration took place, as last year, on the Public Garden, and under the charge of the pastor and teachers of the Warren street Chapel. Without going into a minute and extended account of particulars, it may be said that the success of the affair was complete in all particulars. The threatening clouds of the early morning gave way to sunlight before it was time for the festivities to commence, and then the throng of men, women and children began to pour in. The garden itself never looked lovelier, and as it was decked out with tents and flags, and fandangoes, and gymnasiums, and other fancy structures, there was no mistaking the holiday appearances.

The separate features were sufficiently numerous and diversified to satisfy all varieties of taste and disposition. In the great dancing tent the Germania orchestra furnished music to which thousands of juvenile feet tripped lightly and joyously, for hours together, and the older people looked on from the raised platform with scarcely less delight than that experienced by the little ones.

In the tent of the necromancer, Mr. Harrington, a dozen audiences laughed and were merry at the wonderful tricks and odd sayings which greeted their eyes and ears.

Swings, almost without number, were in use constantly, changing occupants as fast as the boys and girls, seized with some new fancy, ran to the gymnasium, or to watch the queer Chinese kites, or those animal-shaped balloons, which vainly endeavored to break from their fastenings on the island, their seemingly intelligent exertions making a most laughable appearance.

The flower tents were duly patronized, and the whole garden seemed to be full of contented and happy people, of both sexes and all ages.

#### PROCESSION.

The usual city procession formed in front of the City Hall, and started from that place at half-past ten o'clock. Owing, probably, to the very comfortable temperature, the procession was unusually full.

The Chief Marshal was Charles H. Allen, Esq., and his assistants were the following named gentlemen:—Wm. B. Fowle, Jr., George S. Walker, Amory Leland, Theodore H. Dugan, Spencer W. Richardson, Richard A. Newell, Joseph W. Woods, Abel Horton, B. F. Wilson, Roswell D. Tucker, Robert B. Brown, James D. Kent, John N. Fuller, William B. Jackson, Charles G. Johnson, Andrew G. Smith, E. W. Rowland, Hamlin W. Keyes.

The escort was furnished by the Second Regiment of Infantry, with the Boston Brass Band. Gilmore's Band furnished music for the body of the procession. It moved from the City Hall, through School, Washington, Court, and Tremont streets to the Common; through Park, Beacon, Charles, Boylston and Tremont street Malls to West street, thence through Tremont and Winter streets to the Music Hall.



As the procession entered the hall a voluntary was played by the Boston Brigade Band. A choir of about one hundred children, under the direction of Mr. Charles Butler, then chanted the "Venite Exultemus Domino:"

O come, let us sing unto the Lord :  
 Let us heartily rejoice in the strength of our salvation.  
 Let us come before his presence with thanksgiving :  
 And show ourselves glad in him with psalms.  
 For the Lord is a great God :  
 And a great King above all gods.  
 In his hands are all the corners of the earth :  
 And the strength of the hills is his also.  
 The sea is his, and he made it :  
 And his hands prepared the dry land.  
 O come, let us worship and fall down ;  
 And kneel before the Lord our Maker.  
 For he is the Lord our God :  
 And we are the people of his pasture, and the sheep of his hand.  
 O worship the Lord in the beauty of holiness :  
 Let the whole earth stand in awe of him.  
 For he cometh, for he cometh to judge the earth ;  
 And with righteousness to judge the world and the people with his truth.  
 Glory be to the Father, Almighty God,  
 Through Jesus Christ, our Lord.  
 As it was in the beginning, is now, and ever shall be,  
 World without end. Amen.

Amen, Amen.

Prayer was offered by Rev. R. H. Neale, D. D.

The following original ode was sung by the choir of children :

Jubilate! Jubilate!  
 O'er the land the sound we hear,  
 With a note of freedom thrilling  
 Every patriotic ear!  
 Listening we catch the meaning  
 Of the mighty strain sublime,  
 Rolling on and on like echoes,  
 "Through the corridors of time."  
 Jubilate! &c.

Hark! 'tis still the self-same story  
 That our fathers wrote in fire,  
 Record of an olden glory  
 For their children to admire;  
 And we feel its revelation,  
 Making every pulse aglow,  
 Throbbing with the same pulsation,  
 As the heart of long ago

Jubilate! &c.

Here anew we vow to cherish,  
 What they shed their blood to gain;  
 Ne'er through our neglect shall perish,  
 Seeds they sowed mid strife and pain;  
 And like children round a father,  
 On this hallowed natal day,  
 We in new affection gather  
 Filial love again to pay.

Jubilate! &c.

The Declaration of Independence was read by Mr. George H. Cumings, in a very effective manner. A national ode, the words by Mr. William Winter, and the music by Mr. B. A. Burditt, was then sung, as follows:

#### HONOR TO WASHINGTON.

Honor to Washington, our nation's pride!  
 Honor to Washington!  
 The fearless warrior, the faithful guide,—  
 Columbia's noblest son!  
 The first in War, so wise and brave,—  
 The first in Peace, with counsel's grave,—  
 Give him our love to gild a stainless name,  
 And homage not to cease!  
 Give him our love to gild a stainless name,  
 And homage not to cease!

CHORUS—He gave us Freedom! He gave us Union!  
 Honor to Washington!  
 He gave us Freedom! He gave us Union!  
 Honor to Washington!

The name of Washington, how grand and pure!  
 Where shall its like be found!  
 By Glory consecrate, and kept secure  
 On Freedom's hallowed ground!  
 Emblem of Liberty and Right,  
 Brilliant with Virtue's holy light,  
 It lives the first of all the world's renowned,  
 By all the world revered!  
 It lives the first of all the world's renowned,—  
 By all the world revered!

He gave us Freedom! He gave us Union!  
 Honor to Washington!  
 He gave us Freedom! He gave us Union!  
 Honor to Washington!

Deeds of great Washington,—long let them live,—  
 For God, and Truth, and Right,—  
 Let History's storied page their virtues give  
 In Glory's fadeless light!

No thought of self, in act expressed,  
 Guided his arm or filled his breast;  
 With heart and hand the gen'rous hero strove,  
 And freed his native land!  
 With heart and hand the gen'rous hero strove,  
 And freed his native land!

He gave us Freedom! He gave us Union!  
 Honor to Washington!  
 He gave us Freedom! He gave us Union!  
 Honor to Washington!

Fame of our Washington, far be it spread,—  
 A glory and a grace,—  
 The light of Liberty and hope to shed  
 O'er all the human race.  
 While stars shall shine, and rivers run,  
 All men that dwell beneath the sun  
 Shall crown him chief among the People's lords,  
 Though crowns he did disdain!

He gave us Freedom! He gave us Union!  
 Honor to Washington!  
 He gave us Freedom! He gave us Union!  
 Honor to Washington!

Mem'ry of Washington,—Time bears it down  
 Spotless through ev'ry age!  
 All nations hallow now, with fair renown,  
 The Soldier, Patriot, Sage!  
 For though the warrior's laurels fade,  
 And fame of martial deeds grow dim;  
 Time cannot waste nor blight with any shade  
 Our sacred love for him!  
 Time cannot waste nor blight with any shade  
 Our sacred love for him!

He gave us Freedom! He gave us Union!  
 Honor to Washington!  
 He gave us Freedom! He gave us Union!  
 Honor to Washington!

Mr. George Sumner then delivered his Oration, after which the Doxology was sung, and a benediction was pronounced by the Chaplain.

The company then separated, and the City Council, with their guests, proceeded to Faneuil Hall to partake of the usual dinner.

#### BALLOON ASCENSIONS.

The programme for the day included two balloon ascensions by those well reputed, and as the result proved, skilful

aeronauts, Messrs. King and Allen, of Providence. At five o'clock, the hour assigned, an immense concourse of people assembled on the Common to see the start. Both balloons ascended finely, and the spectacle was one of the grandest of the kind ever witnessed.

In the "Frolic," the first to go up, and which has a capacity of 15,000 cubic feet, Mr. Allen ascended, accompanied by his brother's wife. Mr. Allen's brief account of his voyage states that he reached the height of 5,000 feet in twenty minutes, and after enjoying for about half an hour the beautiful panorama stretched beneath him, he descended on the Agricultural Fair Grounds, where he left Mrs. Allen. He then rose again, and after remaining up three-quarters of an hour finally descended at Savin Hill, where he was very hospitably entertained by Messrs. Stedman, Tuttle and others.

Mr. H. T. Rockwell, clerk to the committees of the City Council, was a passenger in the "Queen of the Air," and furnished the following account of his trip to the daily press of the 5th of July: "The 'Queen of the Air' is the largest balloon owned by Messrs. King & Allen, and will contain 33,000 cubic feet of gas. Of course it makes a splendid as well as a monstrous appearance when inflated; and yesterday, everything being ready for the start, as the ballast bags were removed, and it rose so as to give the car full swing upon the ground, excitement was plainly marked upon the faces of the thousands who waited with impatience for the word 'let go!' This excitement was undoubtedly shared by the prospective passengers on the aerial trip about to begin — of course not by Mr. King, whose experience makes a balloon excursion an every-day matter to him — but to some extent by myself and my pleasant *compagnon de voyage*, Mr. Ezra Forristall, Jr. It will seem not at all strange that, setting out on our first balloon trip, we should feel some excitement; in my own case I endeavored to conceal the slight trepidation which was really felt in order to shame down the friendly, but

less pleasing than direct, hints as to my probable destination. Epitaphs and obituary notices were volunteered, and offers were made to share my estate by virtue of an ante-mortem document, which everybody of large property is supposed to prepare just before taking final leave of the world. All these kindnesses I rejected, and took my seat in the car, comparatively resigned and confident. There was some difficulty in starting, on account of the heavy character of the gas. It seemed at one time as though we should not be able to get off with a full complement of passengers. Pouch after pouch of ballast was thrown out, until not the whole of one pouch remained. At last the balloon rose — slowly at first — then a little faster, and still up, up, up, till we reached the height of about half a mile. It was a little before half-past six when we started, and in five minutes our barometer indicated  $28\frac{1}{2}$ , showing that we were about 2,500 feet high.

“It would hardly be supposed that in so short a time we could fix in our minds any distinct impression of the novelty and grandeur of the scene; yet I think that we could appreciate, perhaps with as much force as those below, the following beautiful lines, written for us by a young lady, printed copies of which we threw out as we rose:

“ ‘ As soars the bird with his majestic sweep,  
 Longing some higher light and life to reap;  
 And leaves with rapid wing retiring earth,  
 For upper spheres whose ancestry and worth  
 Divinity alone can comprehend;  
 So we, aspiring, filled with hopes which lend  
 A glory to this grand, exultant day,  
 Part from thee, Earth, and fly away,  
 Leaving terrestrial things to fade and die;  
 While soaring, boundless thought and daring eye  
 Glow with the grandeur of the wondrous scene;  
 And restless longing gains a rest serene.  
 Still golden threads unite our lives to thee;  
 Hands may unclasp, yet hearts not severed be.  
 So ere we reach the utmost gates of blue,  
 We drop this white-winged ‘farewell’ unto you;  
 And ask rich benisons and prayers whose might  
 Shall help us grasp the eternal in our flight—  
 That through our coming years there shall be wrought  
 A noble life from Heaven’s own glory caught.

“ ‘ Balloon Queen of the Air, July 4, 1859.’ ”

“ Our first course was westerly, but at the hour when we started the vigorous breezes of the day had died away, and the air hardly stirred the flag on the State House Cupola. I do not think we went farther west than Charles street, certainly not many feet beyond the Public Garden fence, when a counter current of air — imperceptible to novices, because so light — carried us back over the lower end of the Common, and in the direction of South Boston. Our height did not increase rapidly, although we maintained it satisfactorily, continuing in our south-easterly course. The thermometer, which at starting indicated 65 degrees, had now fallen to  $60\frac{1}{2}$ , but the atmosphere was the most genial possible; and, although in turning to the sun, our faces would feel somewhat warm, in other respects we could not discover any peculiar conditions, except, perhaps, the seeming absence of all wind.

“ It must be borne in mind that our height was much less than that usually attained by aeronauts, and certainly much less than we desired to compass. We reached our greatest height at twenty minutes to seven o'clock, when we had been up a little more than fifteen minutes; at this point the barometer had fallen 30.1 inches, showing that we were about three thousand feet high. We were nearly over the foot of Summer street, going in a south-easterly direction. Cutting across the ‘South Boston flats,’ we went almost directly over the kerosene oil-works, and then across the Point, out towards Long Island. In the meantime we had caught sight of the other balloon, the ‘Frolic,’ in a stationary position, apparently landed, and we afterwards learned that it was in the Agricultural Fair Grounds. It soon after rose and floated off to the west of us, and apparently quite as high, coming down, as it seemed to us, in Dorchester.

“ When at our highest altitude, we drank our own several healths and those of all the rest of the world, in a bottle of sparkling Catawba, and the two passengers were never better pleased with their position than at that particular

moment. The sight was beautiful beyond measure, aside from the fact that we could not see more than forty or fifty miles inland on account of the smoke which, rising from the thousand towns and villages otherwise within sight, had accumulated during a whole day of explosive and illuminative patriotism. Still we could see the greenness of the earth and the splendor of the water, as far as the eye could reach. 'Ten miles to the Outer Light' was but one span in twenty that our vision covered in the seaward aspect. Steamers labored slowly, like creeping turtles, and a hundred white-winged vessels were like so many butterflies shining in the sun, upon a broad and splendid mirror. Yachts seemed like the veriest playthings, and the Deer Island Hospital, not far at our left, was like a wooden block which a child in its cradle might play with at ease. Looking back upon the Common, the rich green of the foliage and the grass contrasted strangely with the dead and almost sombre hue of the bricks and pavement around. When we first rose, the sight on the parade-ground of the Common—where not less than thirty or forty thousand people were congregated—reminded me of nothing so much as the appearance presented by a million cheese-mites under a microscopic glass; all groping about in contrary and aimless directions, apparently with the utmost slowness and deliberation, changing places constantly, but the whole remaining there, a vast moving testimonial of the insignificance of man and the greatness of the creation. Men and the whole of their doings—their great houses, their dreadful locomotives, their iron ships, their planting and their harvest—all dwindled to nothing. Like so many vain automatons, thinking themselves the power, while they are but tools, was the whole life and work of men, as they appeared to one in a balloon. Yet with these humiliating thoughts, nothing was more prominent in my mind in our super-earthly journey, than the exaltation of the great Creator and keeper of all these atoms and this vast and wonderful whole. If one needs confidence

in the power and wisdom of God, let him rise in the upper air, and see how great is the earth and how small is himself.

“ But, to pursue the narration of our journey. Soon after getting fairly above the water, we observed the oft-rehearsed but much discredited phenomenon of the appearance of the transparency of the water. We could plainly see the bottom, and observed the distinctly marked channel-ways, and the margin of discoloration produced by the flowing of the dirty shore water through a sheet of clear, wholesome-looking sea. We dropped our empty champagne bottle to the water, and, as it struck, a beautiful white spray was thrown up, apparently to a considerable height. Some fifteen seconds were occupied by the bottle in falling two thousand five hundred feet. This brings me to the fact that we had now begun to descend—a fact which we should not have discovered had it not been for the faithful indication of the barometer. The current of air prevailing, set towards the shore, but very slowly. Down went the indicator of the barometer, and over went our little store of ballast. The deep water was right under us, and still down we went, the inward current being almost imperceptible. What else could be thrown overboard? There was another bottle of champagne, untouched. Over it went! with a benediction. Still we kept going down, till finally,—*splash* went the basket in the seaweed on Cow-pasture Bar, off Dorchester. We struck so lightly that there was no rebound, and the car only sunk an inch or two. The only wetting we experienced was upon one of my boots, Mr. King and Mr. Forristall having sprung upon the seat sooner than myself. For a short time we drifted in towards the South Boston shore, but after going perhaps a hundred yards, we came to a dead stop. We ranged quite a distance, perhaps a mile from any residences, and as yet we saw no signs of assistance; not that we were anxious, for on the contrary, we all regarded our condition as exceedingly jolly. A dead stand-still in the middle of a half mile of muddy sea-weed was, however, more



than we bargained for. The next thing to be done was to do the best thing we could, viz., to take off our coats, and reaching out our hands, to grasp the sea-weed and pull ourselves shoreward as fast as possible. This we did, but our headway was slow. The weeds were thick and very nasty, but would break away almost upon touch. Occasionally an eel would jump one side just under our hands, to keep up the pleasantness of the sensations.

“Presently we saw a boat coming from Dorchester Point, and when it reached us we were very glad of the assistance of the two men who had taken the trouble to wade a mile in the marsh to help us. These men were George F. Wheeler and Rufus H. Hildreth of Commercial Point. As soon as we reached reasonably hard footing, other men had arrived, and after placing some ballast in the basket, the men took hold of the grapnel rope, and I jumped out to assist them. The balloon was now just light enough to ‘go alone,’ and occasionally it gave the men who had the rope quite a tug. However, we reached dry land, after traversing three-quarters of a mile of salt marsh, near the Old Colony Railroad, and at the foot of Crescent avenue, Dorchester. Here we found quite a number of the residents of that locality awaiting our approach, and we had not long to wait an urgent invitation to visit a neighboring house and refresh ourselves. Mr. King let the gas escape from the balloon as soon as possible, and about nine o’clock everything was packed and on board a wagon, ready to be sent into Boston. I may state here that when we struck, the hour was ten minutes past seven o’clock, we having been up just forty minutes. The thermometer indicated  $60\frac{1}{2}$ , soon after descending.

“In concluding, I desire to express, in behalf of Mr. King, Mr. Forristall and myself, our thanks to Mr. Flavel Moseley and his family, for their extreme hospitality and kindness to us.

“Few aeronauts are so fortunate in their place of descent (barring the salt marsh,) as we were yesterday. And on my

own account. I desire to thank the Committee of the City Council for their kindness in giving me the opportunity to make a 'balloon ascension,' an opportunity which has given me the choicest experience of my life."

#### THE CITY REGATTA.

The regatta was to take place upon Charles River, from Braman's Baths westerly, and an immense concourse of spectators flocked to see it. The housetops on all sides were covered with beauty and valor, windows were crowded with loveliness and gallantry, the shores were lined with modesty and courage, and the river Charles bore upon its unaccustomed bosom a tide of living humanity, inspiring to the contestants and pleasant for others to look upon.— Four races were announced, and the total amount of prize money was \$440. The first race was for single-scuil wherries, in two classes, "shells" and "lapstreaks" or "clinkers." For each of these classes there was a first prize of \$50, and a second prize of \$20. Both classes to start at the same time, to row over a course of one mile, and return to the judges' boat. This judges' boat was the city yacht "Quarantine," and the judges were Messrs. Alfred Whitman, Geo. H. Braman, Amos F. Leonard, Wm. Coughlan, and M. Doherty. For the single-wherry race there were entered —

1. "Star," by W. Moore; 2. "Zouave," T. Daly; 3. "Sword Fish," J. McKay; 4. "Blue Fish," P. H. Colbert; 5. "Olivia," R. M. Pratt; 6. "Autocrat," M. F. Wells; 7. "L'Esperance," R. F. Clark; 8. "Horace Jenkins," T. M. Doyle; and 9. "Thrush," C. F. Driscoll. Numbers 3, 7 and 8 are shells, the rest lapstreaks. The "Sword Fish," although pulled by a maker of wherries, quietly drew aside after going about a quarter of a mile, so that the shell contest was between Nos. 7 and 8. Mr. Doyle has a new shell of the same model as "L'Esperance," but as he had only been out in it once, he preferred to take his old one. The water was somewhat

rough, and Mr. Clark, who was not hard pressed, came in leisurely in 14m. 53s. The time of the "Horace Jenkins" was 15m. 4s. Of the lapstreaks, the "Olivia" made altogether the best time, 15m. 29s. Her nearest competitor was the "Zouave," 16m. 11½s., which, therefore, took the second lapstreak prize. The "Blue Fish" was but one second behind the "Zouave."

The second race, for double-scuil lapstreaks, was over the same course as the last. Prizes \$50 and \$20. There were entered the "Novice," by H. H. Brackett and N. H. Carpenter; "E. K. G.," T. Daly and P. H. Colbert, (both of whom pulled in the first race;) "Spark," J. Stevens and — Fox; and "Dash," Joseph Gifford and Thomas Foster. These four went off very well, and the victors made good time. The "E. K. G.'s" time was 14m. 49s.; "Novice," 14m. 59s.; "Spark," 15m. 30½s.; and "Dash," (which was intercepted, on her return, by a sail boat,) 17m. 28½s. The prizes, of course, were given to the "E. K. G." and "Novice."

The third race was for a distance of three miles, for four-oared boats, without distinction of make. Four boats entered, of which only one ("Wide Awake") was a shell. Following the order of the places which they drew, (as in the other cases,) they were the "Quickstep," manned by J. Scott, Jeremiah Driscoll, J. Hurley, and Robert Donovan; "Wide Awake," by G. Littlefield, M. Burns, W. Mahar, and E. Harrington; "Atkinson Boy," by J. Sullivan, M. Dempsey, D. Holland, and James Sullivan; and "Tiger," by J. Monahan, John Fitzgerald, Wm. Mallory, and H. McKenna. The "Atkinson Boy" did not appear at all, however, and the "Wide Awake," which started with the rest, did not return. The "Tiger" made the three miles in 20m. 53½s.; "Quickstep," 21m. 1½s.

The fourth and last race was for six-oared lapstreak boats. Distance, three miles; prizes \$75 and \$40. Four boats entered: "Fort Hill Boy," rowed by John Murray, J.

O'Brien, M. Driscoll, C. Shaw, D. Sullivan, and James Murray; "Mill Boy," (of Medford,) by J. H. Vinal, J. T. Morrison, Wm. Conner, William Spencer, John Carr, and W. Crockett, with a coxswain; "Exile," (of Somerville, not Erin,) Morris Quan, John Harrington, M. Harrington, M. Scholley, J. Murphy, and J. Driscoll; "Shamrock," by D. F. Murphy, Patrick McKenney, E. Fitzgerald, P. Moran, L. Moran, and E. Franey. The "Exile," soon after starting, fouled with the "Mill Boy," and was ruled out. The "Fort Hill Boy," with one of the best crews in the country, took the first prize, in 20m. 56½s. The "Mill Boy," in spite of its accidents, came next, in 22m. 4½s. The "Shamrock" was seven seconds behind the "Mill Boy."

## SUMMARY.

*Course, Charles River, July 4th, 1859.*—Wherry race, 2 miles, one man, shells, prizes \$50 and \$20; lapstreaks and double scull lapstreaks, same; four-oared boats, 3 miles, \$75 and \$40; six-oared lapstreaks, same.

Class.	Name.	Pulled by	Time.	Prizes.
Wherry . . . .	L'Esperance, . . .	Robert F. Clark . . . .	14m. 53s. . . . .	\$50
Do. . . .	Horace Jenkins .	Thomas Doyle . . . . .	15m. 04s. . . . .	20
Do. . . .	Sword Fish . . . .	J. McKay . . . . .	Withdrew. . . . .	...
Lapstreak ..	Olivia . . . . .	R. M. Pratt . . . . .	15m. 29s. . . . .	50
Do. . . .	Zouave . . . . .	T. Daly . . . . .	16m. 11½s. . . . .	20
Do. . . .	Blue Fish . . . . .	P. H. Colbert . . . . .	16m. 12½s. . . . .	...
Do. . . .	Autocrat . . . . .	M. F. Wells . . . . .	16m. 25s. . . . .	...
Do. . . .	Star . . . . .	W. Moore . . . . .	Withdrew. . . . .	...
Do. . . .	Thrush . . . . .	C. F. Driscoll . . . . .	Withdrew. . . . .	...
Two-sculled.	E. K. G. . . . .	Daley & Colbert . . . .	14m. 49s. . . . .	50
Do. . . .	Novice . . . . .	Brackett & Carpenter	14m. 59s. . . . .	20
Do. . . .	Spark . . . . .	Stearns & Fox . . . . .	15m. 30½s. . . . .	...
Do. . . .	Dash . . . . .	Gifford & Foster . . .	17m. 28½s. . . . .	...
Four-oared .	Tiger . . . . .	J. Monaghan, &c. . . .	20m. 53½s. . . . .	75
Do. . . .	Quickstep . . . . .	J. Scott, &c. . . . .	21m. 01s. . . . .	40
Do. . . .	Wide Awake . . .	G. Littlefield, &c. . . .	Withdrew. . . . .	...
Six-oared ..	Fort Hill Boy . .	J. Murray, &c. . . . .	20m. 56½s. . . . .	75
Do. . . .	Mill Boy . . . . .	H. Vinal, &c. . . . .	22m. 04½s. . . . .	40
Do. . . .	Shamrock . . . . .	D. F. Murphy, &c. . . .	22m. 11½s. . . . .	...
Do. . . .	Exile . . . . .	Morris Quan, &c. . . .	Fouled . . . . .	...

## FIREWORKS.

The evening proved very favorable for a display of fireworks on the Common; and an immense crowd assembled as usual to witness the exhibition. Rockets and tourbillions were discharged from sunset until 9 o'clock, when the first piece, "The Crisis of America," was ignited, and burned for ten minutes. The last piece, the "Battle of Bunker Hill," was a perfect success. Everything connected with the display was performed very effectively, and the crowd dispersed at ten o'clock, very well satisfied. No accidents happened during the exhibition; and as a whole, the display was highly creditable to Mr. Andrew Lanergan, the Pyrotechnist.

Approved August 20, 1859.

F. W. LINCOLN, JR., *Mayor*.

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